

State of Washington

CODE REVISER'S OFFICE

(agency name)

Administrative Order No. 89-1

(1) I, Dennis W. Cooper, Code Reviser, xxxxxxxx

do promulgate and adopt at Olympia, Washington, (place)

the annexed rules relating to:

- New ch. 1-21 WAC Rule making.
Rep ch. 1-12 WAC Drafting and filing of notices and rules.
Rep ch. 1-13 WAC Drafting and filing of notices and rules by institutions of higher education.

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. WSR 89-09-068 filed with the code reviser on April 19, 1989. These rules shall take effect: [X] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2). [ ] at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

[X] (a) This rule is promulgated pursuant to RCW 34.05.385 and 34.08.030 and is intended to administratively implement that statute.

[ ] (b) This rule is promulgated pursuant to RCW which directs that the

(agency) has authority to implement the provisions of

(name of act or RCW citation)

[ ] (c) This rule is promulgated under the general rule-making authority of the

(agency)

as authorized in RCW

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED May 31, 1989

STATE OF WASHINGTON FILED

MAY 31 1989

By Gary Reid Chief Assistant Code Reviser for Dennis W. Title Cooper Code Reviser

CODE REVISER'S OFFICE WSR 89-12-028

## Chapter 1-21 RULE MAKING

WAC	
1-21-005	Purpose.
1-21-010	Preproposal comments.
1-21-020	Notice--Form, contents, numbers.
1-21-030	Notice period--Register distribution date.
1-21-040	Notice--Time for filing.
1-21-050	Continuance.
1-21-060	Withdrawal of proposal.
1-21-070	Administrative order.
1-21-080	Numbering system--Captions.
1-21-090	Redesignation of numbers.
1-21-100	Nontext rules.
1-21-110	Amendatory rules.
1-21-120	Underlining restricted.
1-21-130	Repealers.
1-21-140	Review of previously adopted rules.
1-21-150	Exemptions from publication.
1-21-160	Emergency rules--Filing after office hours.
1-21-170	Official forms.

### NEW SECTION

**WAC 1-21-005 PURPOSE.** This chapter implements RCW 34.05.210 and 34.05.310 through 34.05.395, the provisions of the Administrative Procedure Act on agency rule making. It also implements chapter 34.08 RCW, the State Register Act. It replaces the former chapters 1-12 and 1-13 WAC on drafting and filing of notices and rules. It covers both institutions of higher education and all other administrative agencies, since chapter 34.05 RCW merged chapters 28B.19 and 34.04 RCW.

### NEW SECTION

**WAC 1-21-010 PREPROPOSAL COMMENTS.** An agency that wishes to solicit comments from the public under RCW 34.05.310 on a subject of possible rule making, but before a formal notice is filed under RCW 34.05.320, may complete and file with the code reviser's office a CR-101 form (Preproposal Comments). The filing will appear in the Register in accordance with the schedule provided in WAC 1-21-040.

### NEW SECTION

**WAC 1-21-020 NOTICE--FORM, CONTENTS, NUMBERS.** (1) An agency shall file notice of proposed rule making under RCW 34.05.320 with the code reviser's office on a CR-102 form (Proposed Rule Making). The agency must file the full text of the proposed rule along with the Notice form (RCW 34.08.020).

(2) The agency shall file the original and six copies of the notice package (form and text). The code reviser's office will keep the original and two copies and return four stamped copies to the agency. The joint administrative rules review committee has requested that the agency submit three of these copies to the committee for purposes of legislative review. The agency should keep the remaining copy for its files.

## NEW SECTION

**WAC 1-21-030 NOTICE PERIOD--REGISTER DISTRIBUTION DATE.** (1) Under RCW 34.05.320, notice of proposed rule making must be published in the State Register at least 20 days before the agency may hold a hearing on the proposal. The Register is distributed on the first and third Wednesdays of each month. If a distribution date falls on a state holiday as determined by RCW 1.16.050, the distribution date of that Register will be delayed until Thursday.

(2) In counting the twenty-day notice period, consider the distribution date of the pertinent Register as day 20; count down to day zero to find the first day on which a hearing may be held; cf. RCW 1.12.040 and *State ex rel. Earley v. Batchelor*, 15 Wn.2d 149 (1942).

(3) The schedule of closing dates on page 2 of each Register applies this section and WAC 1-21-040 to the current year. In case of a discrepancy between the WAC rules and the schedule, the rules have priority.

## NEW SECTION

**WAC 1-21-040 NOTICE--TIME FOR FILING.** To permit sufficient lead time for the editorial, data capture, and printing process, material to be published in a particular issue of the Register must be in the physical possession of and filed in the code reviser's office according to the following schedule:

(1) If the material has been prepared and completed by the code reviser's Order Typing Service (OTS), by 5:00 p.m. on the fourteenth day before the distribution date of that issue of the Register; or

(2) If the material has been prepared by any means other than OTS and it contains:

(a) No more than 10 pages, by 5:00 p.m. on the fourteenth day before the distribution date of that Register; or

(b) More than 10 but less than 30 pages, by 5:00 p.m. on the twenty-eighth day before the distribution date of that Register; or

(c) 30 or more pages, by 5:00 p.m. on the forty-second day before the distribution date of that Register.

## NEW SECTION

**WAC 1-21-050 CONTINUANCE.** (1) Under RCW 34.05.325(4), an agency may continue a proceeding that has already started by establishing the later time and place on the record. No publication is required in the Register, but before filing the administrative order adopting the rule, the agency shall give notice of the continuance to the code reviser's office on a CR-102 form. If no substantial change is made in the proposal, the continuance is not subject to the 20-day publication requirement of RCW 34.05.320.

(2) An agency may change the date or the location, or both, of a rule-making proceeding before the proceeding has begun if the agency gives adequate notice to the public through the same methods that were used for the original notice. Adequate notice for purposes of the State Register consists of filing the continuance notice on a CR-102 form with the code reviser in time for it to appear in a Register that will be distributed at least five days before the originally scheduled proceeding.

## NEW SECTION

**WAC 1-21-060 WITHDRAWAL OF PROPOSAL.** Under RCW 34.05.335 a proposed rule may be withdrawn any time before adoption. The agency shall provide notice of withdrawal to the code reviser's office by a letter or memorandum signed by the person who signed the original notice, or by that person's designee. The agency shall send a copy of the withdrawal notice to the rules review committee.

**NEW SECTION**

**WAC 1-21-070 ADMINISTRATIVE ORDER.** (1) The administrative order by which an agency adopts a rule shall be done on a CR-103 form (Rule-making Order) provided by the code reviser's office or, if required by agency practice, on an agency form that provides the information required by RCW 34.05.360. The agency shall number administrative orders sequentially, with a unique number for each rule-making proceeding.

(2) The agency shall file with the code reviser's office the original and three copies of the text of permanent rules, along with four copies of the administrative order. Emergency rules require an additional three copies of the order and the text, which the agency shall file with the rules review committee after the copies have been stamped by the code reviser's office.

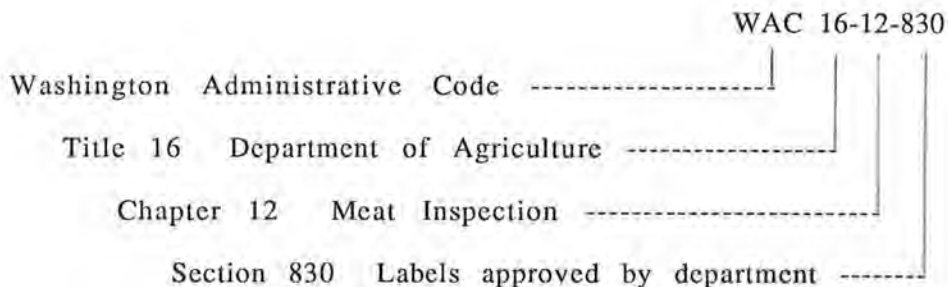
**NEW SECTION**

**WAC 1-21-080 NUMBERING SYSTEM--CAPTIONS.** (1) The primary division of the Washington Administrative Code (WAC) is the *Title*. The code reviser assigns each agency a title number, which usually is in alphabetical order. A newly created agency shall apply to the code reviser's office for assignment of a title number. If an agency's name is changed, the title number stays the same. The list of titles is published in volume 1 of the WAC.

(2) Each title is divided into *chapters*, which are the major subject matter divisions of the agency's title.

(3) Each chapter is divided into *sections*, which are the individual rules and are the smallest unit that can be amended. The agency shall place a short caption on each section to describe its contents. Sections should be as short as reasonably possible to facilitate finding an individual rule and amending it in the future.

(4) The WAC citation number is a composite of these three divisions:



**NEW SECTION**

**WAC 1-21-090 REDESIGNATION OF WAC NUMBERS.** (1) WAC numbers are permanent and may not be changed by the use of addition and deletion marks used for text amendments. If an agency wishes to recodify its permanent rules, it should consult with the code reviser's office for the method to be used.

(2) WAC numbers previously assigned to repealed sections or chapters may not be reused to designate other sections or chapters. The numbers of the repealed rules are shown in a disposition table prepared by the code reviser and published with the appropriate chapter or title.

**NEW SECTION**

**WAC 1-21-100 NONTEXT RULES.** All tables, charts, maps, and other material that are rules under RCW 34.05.010 must be either part of another rule or be assigned WAC numbers and adopted as individual sections. The latter method is preferred, and it simplifies future amendment.

## NEW SECTION

**WAC 1-21-110 AMENDATORY RULES.** (1) Designate each amendatory section with the heading "AMENDATORY SECTION" followed by a reference to the agency order number and filing date of the latest permanent order affecting that section. Show amendments to the text in terms of the latest permanent version of the section that has been filed with the code reviser.

(2) If a section to be amended has been exempted from publication under RCW 34.05.210 and is not published in the WAC, in later orders amending or repealing the section refer to it by the original agency order and section number or other appropriate description.

## NEW SECTION

**WAC 1-21-120 UNDERLINING RESTRICTED.** Since RCW 34.05.395 requires the use of the legislature's bill-drafting style to show amendments in previously adopted rules, underlined text may be used only to show new material added to an existing section. Underlining may not be used for emphasis, as it would not permit codification of the section in the usual manner. *Italics* or **boldface** may be used for emphasis. Consult with the code reviser's office if in doubt as to the proper method for indicating these styles.

## NEW SECTION

**WAC 1-21-130 REPEALERS.** To repeal one or more current sections, list them individually by citation and caption under a heading of "REPEALER." An entire chapter may be repealed section by section or as one complete unit. The first method preserves the unrepealed section numbers for future use, while the second method eliminates the entire chapter number from future use.

## NEW SECTION

**WAC 1-21-140 REVIEW OF PREVIOUSLY ADOPTED RULES.** When an agency is required under RCW 34.05.630 to review permanent or emergency rules previously adopted, the agency shall file notice of the review with the code reviser on a CR-104 form (Review of Previously Adopted Rules). The agency shall file the original and six copies of the notice. Four copies will be returned to the agency, three of which shall be delivered to the rules review committee. The notice is subject to the twenty-day requirement of RCW 34.05.320. The text of the rule under review is not needed with this notice.

## NEW SECTION

**WAC 1-21-150 EXEMPTIONS FROM PUBLICATION.** Agency rules that are likely to be omitted from WAC publication by the code reviser under the authority of RCW 34.05.210, may, upon application by the agency to the code reviser for an exemption, be exempted by the code reviser from the form and style requirements of this chapter, other than requirements that are imposed by statute. An application for exemption must be made and approved before filing the rules.

NEW SECTION

**WAC 1-21-160 EMERGENCY RULES--FILING AFTER OFFICE HOURS.** The code reviser's office is open for the filing of agency rule-making notices and orders from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. The code reviser delegates to the Washington State Patrol the authority to accept at other times the filing of emergency orders adopting, amending or repealing rules when the emergency nature of the orders requires their filing and immediate effectiveness. To use this service, the agency may telephone the capitol security unit of the state patrol at 753-2191 to arrange for receipt of the filing by the state patrol. The agency shall notify the code reviser's office of the filing by 9:00 a.m. on the next business day after the filing.

NEW SECTION

**WAC 1-21-170 OFFICIAL FORMS.** Agencies may obtain the following official forms from the code reviser's office upon request:

- (1) Form CR-101 Preproposal Comments
- (2) Form CR-102 Proposed Rule Making
- (3) Form CR-103 Rule-making Order
- (4) Form CR-104 Review of Previously Adopted Rules.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 1-12-005 DECLARATION OF PURPOSE.  
WAC 1-12-010 WHO MUST FILE RULES UNDER CHAPTER 34.04 RCW.  
WAC 1-12-020 WHAT RULES MUST BE FILED.  
WAC 1-12-030 NOTICES OF INTENTION TO ADOPT RULES.  
WAC 1-12-032 RULE PURPOSE AND IMPLEMENTATION STATEMENT.  
WAC 1-12-033 WITHDRAWAL OF PROPOSED RULE.  
WAC 1-12-034 REVIEW OF PREVIOUSLY ADOPTED RULES.  
WAC 1-12-035 TIME FOR FILING MATERIAL FOR INCLUSION IN REGISTER.  
WAC 1-12-040 ADMINISTRATIVE ORDER--HOW PROMULGATED.  
WAC 1-12-045 ADMINISTRATIVE ORDER--DUTY TO MAINTAIN ORDER REGISTER.  
WAC 1-12-050 FILING OF ADMINISTRATIVE ORDER--RULES ADOPTED.  
WAC 1-12-060 FORMULATION OF AGENCY ORDERS CREATING, AMENDING, OR REPEALING RULES.  
WAC 1-12-070 WASHINGTON ADMINISTRATIVE CODE--BASIC ORGANIZATION.  
WAC 1-12-080 DRAFTING INSTRUCTIONS--TITLE NUMBER--CHAPTER AND SECTION NAMES AND NUMBERS.  
WAC 1-12-090 DRAFTING INSTRUCTIONS--DIVISION OF CHAPTERS INTO SECTIONS.  
WAC 1-12-100 DRAFTING INSTRUCTIONS--SUBSECTIONS, SUBDIVISIONS, ITEMS, AND SUBITEMS.  
WAC 1-12-110 DRAFTING INSTRUCTIONS--CITATIONS AND REFERENCES.  
WAC 1-12-120 DRAFTING INSTRUCTIONS--TITLE AND CHAPTER DIGESTS--HISTORY NOTES.  
WAC 1-12-125 DRAFTING INSTRUCTIONS--USE OF UNDERLINING.  
WAC 1-12-130 DRAFTING INSTRUCTIONS--AMENDATORY SECTION.  
WAC 1-12-140 DRAFTING INSTRUCTIONS--REPEALER SECTIONS.  
WAC 1-12-150 DRAFTING INSTRUCTIONS--SEQUENCE AND NUMBERING OF SECTIONS.  
WAC 1-12-155 DRAFTING INSTRUCTIONS--IDENTIFICATION OF SECTIONS AS NEW, AMENDATORY, OR REPEALED.  
WAC 1-12-160 DRAFTING INSTRUCTIONS--REDESIGNATION OF WAC NUMBERS--AMENDMENT OR REPEAL OF INCONSISTENT RULES.  
WAC 1-12-170 TYPING INSTRUCTIONS--GENERAL.  
WAC 1-12-180 TYPING INSTRUCTIONS--NEW CHAPTERS OF WAC.  
WAC 1-12-190 EMERGENCY RULES.  
WAC 1-12-191 EMERGENCY RULES--FILING AFTER OFFICE HOURS.  
WAC 1-12-200 EXEMPTION FROM THESE RULES.  
WAC 1-12-210 OFFICIAL FORMS SUPPLIED UPON REQUEST.  
WAC 1-12-220 ORDER TYPING SERVICE (OTS).  
WAC 1-12-910 NOTICE OF INTENTION TO ADOPT, AMEND, OR REPEAL RULES (FORM CR-1).  
WAC 1-12-930 FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD (FORM CR-7).  
WAC 1-12-940 FORM OF ORDER AND TRANSMITTAL BY BOARD, COMMISSION, OR COUNCIL (FORM CR-8).  
WAC 1-12-950 NOTICE OF REVIEW OF PREVIOUSLY ADOPTED RULES (FORM CR-11).

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 1-13-005 DECLARATION OF PURPOSE.  
WAC 1-13-010 WHO MUST FILE RULES.  
WAC 1-13-020 WHAT RULES MUST BE FILED.  
WAC 1-13-030 NOTICES OF INTENTION TO ADOPT RULES.  
WAC 1-13-032 RULE PURPOSE AND IMPLEMENTATION STATEMENT.  
WAC 1-13-033 WITHDRAWAL OF PROPOSED RULE.  
WAC 1-13-034 REVIEW OF PREVIOUSLY ADOPTED RULES.  
WAC 1-13-035 TIME FOR FILING MATERIAL FOR INCLUSION IN REGISTER.  
WAC 1-13-040 ADMINISTRATIVE ORDERS--HOW PROMULGATED.  
WAC 1-13-045 ADMINISTRATIVE ORDERS--DUTY TO MAINTAIN ORDER REGISTER.  
WAC 1-13-050 FILING OF ADMINISTRATIVE ORDER--RULES ADOPTED.  
WAC 1-13-060 FORMULATION OF INSTITUTION ORDERS CREATING, AMENDING, OR REPEALING RULES.  
WAC 1-13-070 WASHINGTON ADMINISTRATIVE CODE--BASIC ORGANIZATION.  
WAC 1-13-080 DRAFTING INSTRUCTIONS--TITLE NUMBER--CHAPTER AND SECTION NAMES AND NUMBERS.  
WAC 1-13-090 DRAFTING INSTRUCTIONS--DIVISION OF CHAPTERS INTO SECTIONS.  
WAC 1-13-100 DRAFTING INSTRUCTIONS--SUBSECTIONS, SUBDIVISIONS, ITEMS, AND SUBITEMS.  
WAC 1-13-110 DRAFTING INSTRUCTIONS--CITATIONS AND REFERENCES.  
WAC 1-13-120 DRAFTING INSTRUCTIONS--TITLE AND CHAPTER DIGEST--HISTORY NOTES.  
WAC 1-13-125 DRAFTING INSTRUCTIONS--USE OF UNDERLINING.  
WAC 1-13-130 DRAFTING INSTRUCTIONS--AMENDATORY SECTIONS.  
WAC 1-13-140 DRAFTING INSTRUCTIONS--REPEALER SECTIONS.  
WAC 1-13-150 DRAFTING INSTRUCTIONS--SEQUENCE AND NUMBERING OF SECTIONS.  
WAC 1-13-155 DRAFTING INSTRUCTIONS--IDENTIFICATION OF SECTIONS AS NEW, AMENDATORY, OR REPEALED.  
WAC 1-13-160 DRAFTING INSTRUCTIONS--REDESIGNATION OF WAC NUMBERS--AMENDMENT OR REPEAL OF INCONSISTENT RULES.  
WAC 1-13-170 TYPING INSTRUCTIONS--GENERAL.  
WAC 1-13-180 TYPING INSTRUCTIONS--NEW CHAPTERS OF WAC.  
WAC 1-13-190 EMERGENCY RULES.  
WAC 1-13-200 EXEMPTION FROM THESE RULES.  
WAC 1-13-210 OFFICIAL FORMS SUPPLIED UPON REQUEST.  
WAC 1-13-230 DISPOSITION OF RULES AND NOTICES FILED UNDER CHAPTER 34.04 RCW.  
WAC 1-13-240 ORDER TYPING SERVICE (OTS).  
WAC 1-13-910 NOTICE OF INTENTION TO ADOPT, AMEND, OR REPEAL RULES BY INSTITUTION OF HIGHER EDUCATION (FORM CR-4).  
WAC 1-13-930 FORM OF ORDER AND TRANSMITTAL BY INSTITUTION HAVING SINGLE HEAD (FORM CR-9).  
WAC 1-13-940 FORM OF ORDER AND TRANSMITTAL BY BOARD, COMMISSION, OR COUNCIL (FORM CR-10).  
WAC 1-13-950 NOTICE OF REVIEW OF PREVIOUSLY ADOPTED RULES BY INSTITUTION OF HIGHER EDUCATION (FORM CR-12).