



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: Department of Community Development

Permanent Rule
 Emergency Rule

(1) Date of adoption: 4/22/92 Administrative Order No. 92-03

(2) Purpose: To establish guidelines and procedures for state agencies and institutions to contract with cities and towns for the costs of providing fire protection services to state facilities and personnel.

(3) Citation of existing rules affected by this order:
 Repealed: WAC 365-80-010 thru -090; add new sections -100 thru -200.
 Amended:
 Suspended:

(4) Authority for adoption:
 Statute: 35.21 RCW
 Other Authority:

(5.1) **PERMANENT RULE ONLY**
 Pursuant to notice filed as WSR _____ on _____ (date).
 Describe any changes other than editing from proposed to adopted version:

(5.2) **EMERGENCY RULE ONLY**
 Pursuant to RCW 34.05.350 the agency for good cause finds:
 (a) 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.
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
 Reasons for this finding: The enabling legislation (SHB 2937) directs the Department of Community Development to adopt rules on or before May 1, 1992.


(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
 Yes No If yes, explain:

(6) Effective date of rule:
Permanent Rules **Emergency Rules**
 31 days after filing Immediately
 Other (specify) _____ * Later (specify) _____
 *(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

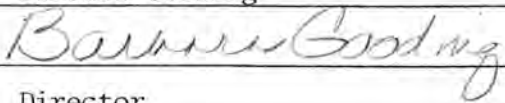
CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

APR 22 1992

TIME: 9:47 
 WSR: 9209.147

NAME (TYPE OR PRINT)
 Barbara Gooding

SIGNATURE


TITLE
 Director

DATE
 4/16/92

NEW SECTION

WAC 365-80-100 AUTHORITY. This chapter is promulgated pursuant to the authority granted in chapter 35.21 RCW.

NEW SECTION

WAC 365-80-110 PURPOSE. The purpose of these rules is to implement the provisions of Substitute House Bill No. 2937 (chapter 117, Laws of 1992) which provides that state agencies and municipalities may negotiate fire protection contracts at their discretion, and also provides that certain municipalities are eligible to enter into compulsory fire protection contracts with state agencies. These rules set forth the guidelines that the department will use in determining which municipalities are eligible to enter into compulsory fire protection contracts with state agencies, and a process for resolving disputes between the parties negotiating any such contracts.

NEW SECTION

WAC 365-80-120 DEFINITIONS. (1) "Department" means the department of community development.

(2) "Director" means the director of the department of community development.

(3) "Fire protection services" mean those fire services normally provided by a city or town for the protection of persons and property, except equipment operated and facilities owned by a city or town.

(4) "State facilities" mean buildings or facilities owned by the state or an agency or institution of the state, except those leased to a nontax-exempt person or organization, located within a city's or town's territorial limits.

(5) "State agency" means any agency or institution of the state of Washington.

(6) "Compulsory fire protection contract" means a fire protection contract as described in WAC 365-80-130.

(7) "Municipality" means city or town.

NEW SECTION

WAC 365-80-130 ELIGIBILITY MUNICIPALITIES. Section 4, chapter 117, Laws of 1992, provides that when a municipality has one or more state agencies located within its city limits, the municipality and the agency or agencies may enter into fire protection contracts. Section 6, chapter 117, Laws of 1992, provides that in cities or towns where the estimated value of state facilities equals ten percent or more of the municipality's total assessed valuation, as determined by the department, the state agency shall enter into a compulsory fire protection contract to provide the municipality with an equitable share of its fire protection services costs. An exception is provided where fire protection services are performed by state staff and equipment or by a fire protection district pursuant to RCW 52.30.020.

NEW SECTION

WAC 365-80-140 NOTIFICATION OF INTENT TO CONTRACT. Cities and towns shall notify the department and the appropriate state agency in writing, not later than July 1 of the fiscal year for which payment shall be made, of their intent to enter into compulsory fire protection contract negotiations. When more than one state agency is located in a city or town, that municipality may notify only the department of its intent to enter into compulsory fire contract negotiations, and the department shall thereupon notify the appropriate state agencies of the municipality's intent. Municipalities making such notification shall include the name of the state agency or agencies which have state-owned facilities located therein. The department shall verify whether the state agency facilities in the municipality meet the estimated value threshold.

NEW SECTION

WAC 365-80-150 METHOD FOR DETERMINING STATE AGENCY SQUARE FOOTAGE. After a municipality notifies the department of its intent to enter into compulsory fire protection contract negotiations (WAC 365-80-140), the department shall request a written report from each state agency in that municipality identifying the agency's state-owned facilities located therein. The report shall provide the square footage for each agency, and shall be submitted to the department within twenty days after receiving the request. The square footage shall be calculated as of July 1 of the fiscal year for which payment shall be made. No adjustments will be made until the following year for new facilities built or acquired after the determinations have been made.

NEW SECTION

WAC 365-80-160 METHOD FOR DETERMINING ESTIMATED VALUES. The department shall estimate the value of a state facility by formula, using the facility's total square footage and an estimated value per square foot, as developed by the department in consultation with the department of general administration and the association of Washington cities. The estimated state facility value per square foot shall be reviewed annually and revised accordingly.

NEW SECTION

WAC 365-80-170 NOTIFICATION TO MUNICIPALITIES. Not later than July 31 of each year the department shall inform in writing each municipality making notification under WAC 365-80-140, and the appropriate state agency or agencies, whether or not the municipality meets the estimated value threshold.

NEW SECTION

WAC 365-80-180 GOOD FAITH NEGOTIATIONS. Negotiations for compulsory fire protection contracts shall be conducted in good faith. Good faith negotiations may include consideration of the unique benefits and burdens associated with the presence of the state facility or facilities in the city or town.

NEW SECTION

WAC 365-80-190 DISPUTE RESOLUTION. If disputes arise when negotiating compulsory fire protection contracts, they shall be disposed of as follows:

(1) When notified by one of the parties of a disagreement, the director shall mediate a resolution.

(2) If the impasse continues, the director shall recommend a resolution. Mediation efforts shall be completed within thirty days after the director is notified.

(3) If the recommended resolution is not accepted, the director shall direct the parties to arbitration. Arbitration shall be conducted by a neutral arbiter acceptable to each party to the negotiations, and shall be completed within sixty days after being initiated. The arbiter shall select the final offer of either of the contracting parties, or the director's recommended resolution. Expenses associated with the arbitration shall be borne by the contracting parties, and the arbiter's decision shall be final, binding, and nonappealable.

NEW SECTION

WAC 365-80-200 ANNUAL PAYMENTS. Payment for compulsory fire protection contracts shall be made directly to the municipalities not later than November 30 of each year. In cases involving arbitration, payment shall be made to the municipalities within thirty days of the arbiter's decision.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 365-80-010	GENERAL PURPOSE.
WAC 365-80-020	ELIGIBLE AGENCIES.
WAC 365-80-030	STATE FACILITIES.
WAC 365-80-040	FIRE PROTECTION SERVICES.
WAC 365-80-050	BASIC FIRE PROTECTION PAYMENT.
WAC 365-80-060	METHOD OF DETERMINING SQUARE FOOTAGE OF STATE FACILITIES.
WAC 365-80-070	PAYMENTS.
WAC 365-80-080	DECISIONS OF THE PLANNING AND COMMUNITY AFFAIRS AGENCY FINAL.
WAC 365-80-090	UNEXPENDED FUNDS.