

JULY 19, 1989

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CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

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

REPUBLICATION OF OFFICIAL DOCUMENTS

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

CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of July 1989 pursuant to RCW 19.52.020 is twelve point four four percent (12.44%).

NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.

The maximum allowable retail installment contract service charge applicable for calendar year 1989 pursuant to RCW 63.14.130(1)(a) is thirteen and one-half percent (13.50%).

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is fourteen point seven five percent (14.75%) for the third calendar quarter of 1989.

The maximum allowable retail installment contract service charge for the purchase of a vessel pursuant to RCW 63.14.130(3)(a) is fourteen point two five percent (14.25%) for the third calendar quarter of 1989.

WASHINGTON STATE REGISTER

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

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

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

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

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

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

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

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

5. EFFECTIVE DATE OF RULES

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

6. EDITORIAL CORRECTIONS

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

7. INDEX AND TABLES

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

1989 – 1990

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing on or after
89-14	Jun 7	Jun 21	Jul 5	Jul 19	Aug 8
89-15	Jun 21	Jul 5	Jul 19	Aug 2	Aug 22
89-16	Jul 5	Jul 19	Aug 2	Aug 16	Sep 5
89-17	Jul 26	Aug 9	Aug 23	Sep 6	Sep 26
89-18	Aug 9	Aug 23	Sep 6	Sep 20	Oct 10
89-19	Aug 23	Sep 6	Sep 20	Oct 4	Oct 24
89-20	Sep 6	Sep 20	Oct 4	Oct 18	Nov 7
89-21	Sep 20	Oct 4	Oct 18	Nov 1	Nov 21
89-22	Oct 4	Oct 18	Nov 1	Nov 15	Dec 5
89-23	Oct 25	Nov 8	Nov 22	Dec 6	Dec 26
89-24	Nov 8	Nov 22	Dec 6	Dec 20	Jan 9, 1990
90-01	Nov 22	Dec 6	Dec 20, 1989	Jan 3, 1990	Jan 23
90-02	Dec 6	Dec 20, 1989	Jan 3, 1990	Jan 17	Feb 6
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90-05	Jan 24	Feb 7	Feb 21	Mar 7	Mar 27
90-06	Feb 7	Feb 21	Mar 7	Mar 21	Apr 10
90-07	Feb 21	Mar 7	Mar 21	Apr 4	Apr 24
90-08	Mar 7	Mar 21	Apr 4	Apr 18	May 8
90-09	Mar 21	Apr 4	Apr 18	May 2	May 22
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90-23	Oct 24	Nov 7	Nov 21	Dec 5	Dec 25
90-24	Nov 7	Nov 21	Dec 5	Dec 19	Jan 2, 1991

¹All documents are due at the code reviser's office by 5:00 p.m. on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

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

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

WSR 89-13-032
RULES OF COURT
STATE SUPREME COURT
[June 12, 1989]

IN THE MATTER OF THE ADOPTION
OF GR 1, NEW GR 13, NEW GR 14, RLD
4.4(a), RLD 4.5(c), RLD 4.6(c), RLD 4.10,
NEW RLD 4.10A, ER 1101(d), RAP 2.2(d),
CR 2A, CR 4(b), CR 4.1, CR 10(d),
CR 26(c), CR 26(h), CR 30(b), CR 33(a),
CR 34(b), CR 36(a), CR 47(b), CR 54(b), 25700-A-433
CR 59(b), CR 65(c), MAR 1.2, MAR ORDER
1.3(b), MAR 3.2, MAR 5.3, MAR 7.1(a),
MAR 7.2, MAR 7.3, SPR 90.04W, SPR 91.04W,
SPR 93.04W, SPR 98.08W, SPR 98.12W,
SPR 98.16W, SPR 98.20W, CrR 1.5,
CrR 6.5, JAR Title, JAR 2, JCR 10(c),
JCR 38(e), JCR 85, CrRLJ 1.5,
JTIR 2.1(b), JTIR 2.2(b), JTIR 2.3,
JTIR 2.4, JTIR 2.6, JTIR 4.1,
JTIR 6.2, AND NEW JTIR 6.6

The Washington State Bar Association having recom-
mended the adoption of GR 1, New GR 13, New GR
14, RLD 4.4(a), RLD 4.5(c), RLD 4.6(c), RLD 4.10,
New RLD 4.10A, ER 1101(d), RAP 2.2(d), RAP
2.2(d), CR 2A, CR 4(b), CR 4.1, CR 10(d), CR 26(c),
CR 26(h), CR 30(b), CR 33(a), CR 34(b), CR 36(a),
CR 47(b), CR 54(b), CR 59(b), CR 65(c), MAR 1.2,
MAR 1.3(b), MAR 3.2, MAR 5.3, MAR 7.1(a), MAR
7.2, MAR 7.3, SPR 90.04W, SPR 91.04W, SPR
93.04W, SPR 98.08W, SPR 98.12W, SPR 98.16W,
SPR 98.20W, CrR 1.5, CrR 6.5, JAR Title, JAR 2,
JCR 10(c), JCR 38(e), JCR 85, CrRLJ 1.5; and the
Rules Committee having recommended JTIR 2.1(b),
JTIR 2.2(b), JTIR 2.3, JTIR 2.4, JTIR 2.6, JTIR 4.1,
JTIR 6.2, New JTIR 6.6, and the Court having consid-
ered the proposed Rules, Amendments and comments
submitted thereto, and having determined that the pro-
posed Rules and Amendments will aid in the prompt and
orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the Rules and Amendments as attached
hereto are adopted;

(b) That the Rules and Amendments will be published
in the special rules edition of the Washington Reports in
July, 1989, and will become effective September 1, 1989,
except for GR 14, CR 10(d), JCR 10(c), CrR 1.5 and
CrRLJ 1.5. which have a delayed implementation date
of September 1, 1990,

DATED at Olympia, Washington this 12th day of
June, 1989.

Keith M. Callow

Fred H. Dore

Robert F. Utter

Robert F. Brachtenbach

Vernon R. Pearson

James M. Dolliver

James A. Andersen

B. Durham

Charles Z. Smith

GR 1

CLASSIFICATION SYSTEM FOR COURT RULES
PART V: RULES FOR COURTS OF LIMITED JURISDICTION

Justice Court Administrative Rules JAR
Administrative Rules for Courts of Limited Jurisdiction ARLJ
Rules for Appeal of Decisions of Courts of Limited Jurisdiction RALJ
Justice Court Civil Rules JCR
Civil Rules for Courts of Limited Jurisdiction CRLJ
Criminal Rules for Courts of Limited Jurisdiction CrRLJ
Justice Court Traffic Infraction Rules JTIR

AMENDMENTS TO GENERAL RULES

GR 13

[NEW RULE]

USE OF UNSWORN STATEMENT IN LIEU OF AFFIDAVIT

(a) Unsworn Statement Permitted. Except as provided
in section (b), whenever a matter is required or permit-
ted to be supported or proved by affidavit, the matter
may be supported or proved by an unsworn written
statement, declaration, verification, or certificate execut-
ed in accordance with RCW 9A.72.085. The certifica-
tion or declaration may be in substantially the following
form:

I certify (or declare) under penalty of perjury under
the laws of the State of Washington that the foregoing is
true and correct:

(Date and Place)

(Signature)

(b) Exceptions. This rule does not apply to writings
requiring an acknowledgment, oaths of office, or oaths
required to be taken before a special official other than a
notary public.

GR 14

[NEW RULE]

PAPER SIZE FOR PLEADINGS AND OTHER PAPERS

All pleadings, motions, and other papers shall be
plainly written or printed, and, except for exhibits, the
use of letter-size paper (8 1/2 by 11 inches) is manda-
tory. The use of letter-size copies of exhibits is encour-
aged if it does not impair legibility. This rule shall apply
to all proceedings in all courts of the State of
Washington.

AMENDMENTS TO RULES FOR LAWYER DISCIPLINE

RLD 4.4(a)

(a) Content. The notice to answer shall be substan-
tially in the following form:

BEFORE THE DISCIPLINARY BOARD
OF THE WASHINGTON STATE BAR ASSOCIATION

In re

an Attorney at Law.

NOTICE TO ANSWER
AND NOTICE OF HEARING
OFFICER [OR PANEL].
NOTICE OF DEFAULT
PROCEDURE

TO: The above named attorney at law:

You are notified that a formal complaint has been filed against you, a copy of which is served upon you with this notice. You are notified that you must file your answer to the complaint within 20 days of the date of service upon you, filing the original and one copy of your answer at the office of the Washington State Bar Association, at the address given below, and by filing one copy [with the hearing officer] [with each member of the hearing panel] at the address[es] given below. Failure to file an answer may result in the imposition of a disciplinary sanction against you and the entry of an order of default pursuant to rule 4.10A of the Rules for Lawyer Discipline. Upon the filing of your answer, or in the case of your failure to answer within 20 days, further proceedings will be had in accordance with the Rules for Lawyer Discipline, and shall become public pursuant to rule 11.1.

NOTICE OF DEFAULT PROCEDURE: YOUR DEFAULT MAY BE ENTERED FOR FAILURE TO FILE A WRITTEN ANSWER TO THIS FORMAL COMPLAINT WITHIN 20 DAYS AFTER SERVICE AS PRESCRIBED BY RULE 4.10A OF THE RULES FOR LAWYER DISCIPLINE. THE ENTRY OF AN ORDER OF DEFAULT MAY RESULT IN THE CHARGES OF MISCONDUCT SET FORTH IN THE FORMAL COMPLAINT BEING ADMITTED AND DISCIPLINE BEING IMPOSED OR RECOMMENDED BASED ON THE ADMITTED CHARGES OF MISCONDUCT. IF AN ORDER OF DEFAULT IS ENTERED, YOU WILL LOSE THE OPPORTUNITY TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS AND UNTIL THE ORDER OF DEFAULT IS VACATED ON MOTION TIMELY MADE UNDER RULE 4.10A(c) OF THE RULES FOR LAWYER DISCIPLINE. THE ENTRY OF AN ORDER OF DEFAULT MEANS THAT YOU WILL RECEIVE NO FURTHER NOTICES REGARDING THESE PROCEEDINGS EXCEPT THOSE REQUIRED BY RULE 4.10A (b)(2).

You are further notified that the [hearing officer] [hearing panel] assigned to this proceeding is: [insert name, address and telephone number of hearing officer, or name, address and telephone number of each hearing panel member with an indication of the chairperson of the panel].

Dated this _____ day of _____, 19__.

WASHINGTON STATE BAR ASSOCIATION
By _____
State Bar Counsel
Address: _____
Telephone: _____

RLD 4.5(c)

(c) Time To Answer. The respondent lawyer shall have 20 days from the date of service of the formal complaint and notice to answer to file his or her answer. Failure to file an answer as required may constitute grounds for discipline and for taking of an order of default according to the procedures set out in rule 4.10A.

RLD 4.6(c)

(c) Service and Answer. Service of an amendment to a formal complaint shall be made on the respondent lawyer as provided in rule 12.1(a). The respondent lawyer must file an answer to the amendment within 20 days of service, unless the time to answer is shortened upon motion of state bar counsel. The answer to an amendment shall be governed by rule 4.5, except that

any part of a previous answer may be incorporated therein by reference. Failure to file an answer to an amendment may constitute grounds for discipline and for taking an order of default according to the procedures set out in rule 4.10A.

RLD 4.10
DISCIPLINARY HEARING

(a) Where Held. All disciplinary hearings shall be held in the state of Washington at a location designated by the hearing officer or panel chairperson, except that if the respondent lawyer is not a resident of the state, or cannot be found in the state, the hearing may be held outside of the state.

(b) Scheduling of Hearing. When possible, state bar counsel and the respondent lawyer should arrange a date, time, and place for the hearing by agreement among themselves and the hearing officer or panel members. Alternatively, at any time after the respondent lawyer has filed his or her answer to the formal complaint, or after the time to file such an answer has expired, either state bar counsel or the respondent lawyer may move the hearing officer or hearing panel chairperson for an order setting a date, time, and place for the hearing. Such a motion shall be made pursuant to rule 4.8 and shall set forth the requested date or dates for the hearing, other dates that are available to the requesting party, the expected length of time the hearing will take, the nature of matters including discovery which are pending or which must be completed prior to the hearing, and the requested time and place for the hearing. A response to such a motion shall contain the same information. The hearing officer or panel chairperson shall rule on the motion as provided in rule 4.8(c) and file a ruling as provided in rule 4.8(d).

(c) Motion for Hearing Within 120 Days. A request by a respondent lawyer, made by motion pursuant to section (b), for a hearing within 120 days shall be granted, unless state bar counsel shows good cause for setting the hearing at a later date.

(d) Notice. Service of a copy of an order or ruling of the hearing officer or panel chairperson setting a date, time, and place for the hearing shall constitute notice of the hearing. The respondent lawyer shall be given at least 10 days' notice of the hearing unless he or she otherwise consents.

(e) Continuance. Either the respondent lawyer or state bar counsel may by motion request a continuance of the hearing date. Such a motion may be granted in the discretion of the hearing officer or panel chairperson for good cause shown.

(f) Representation. The Association shall be represented at the hearing by state bar counsel. The respondent lawyer may be represented by counsel.

(g) Lawyer Must Attend. A respondent lawyer given notice of a hearing must attend the hearing.

(1) In addition; The lawyer must bring to the hearing such documents, files, records, or other written materials or things as state bar counsel may request in writing. The written request shall be served on the respondent lawyer at least 3 days before the scheduled hearing.

Failure to attend the hearing or bring requested materials as herein provided, without good cause, may constitute grounds for discipline.

(2) If the respondent lawyer fails to attend the hearing, after proper notice, the hearing officer or panel may draw an adverse inference from the respondent's failure to attend as to any questions which might have been asked the lawyer at the hearing. The hearing officer or panel shall allow evidence and testimony to be submitted through depositions regardless of the availability of the person testifying at the deposition. Affidavits or declarations are also admissible, if the facts stated in the affidavits are within the personal knowledge of the affiant, if the facts are set forth with particularity and if the affidavit to be offered in evidence shows affirmatively that the affiant if sworn as a witness could testify competently to the facts set forth in the affidavit.

~~(h) Default. In no event shall a default be entered against a respondent lawyer, but:~~

~~(1) If the respondent lawyer fails to attend the hearing, after proper notice, regardless of whether an answer has been filed, the hearing officer or panel may draw an adverse inference from the failure to attend as to any questions which might have been asked the lawyer at the hearing and shall allow evidence and testimony to be submitted through affidavit and/or deposition regardless of the whereabouts of the person supplying the affidavit or testifying at the deposition.~~

~~(2) If the respondent lawyer fails to answer the formal complaint, but attends the hearing, the hearing officer or panel shall grant a request of state bar counsel to allow presentation of additional evidence at a later date, which request may be made before or after the available witnesses have testified and the available evidence has been submitted. A default may be taken against a respondent lawyer according to the procedures set out in rule 4.10A.~~

~~(i) Witnesses. Except as provided under section (h)(1), in section (g)(2) and rule 4.10A, witnesses shall testify under oath. Testimony may also be submitted by deposition under the same terms as permitted by CR 32. Testimony shall be recorded by a court reporter or by tape recording if allowed by the hearing officer or panel chairperson.~~

~~(j) Subpoenas. Subpoenas for witnesses or for production of documents or things shall be available to both the respondent lawyer and state bar counsel pursuant to the terms of CR 45.~~

RLD 4.10A
[NEW RULE]
DEFAULT PROCEEDINGS

(a) Entry of Default.

(1) Motion. When a respondent lawyer, after being served with a notice to answer as provided in rule 4.4, fails to file the answer required by rule 4.5 within the time provided by these rules, state bar counsel shall serve written notice of a motion for an order of default upon the respondent lawyer.

(2) Notice. The respondent lawyer shall be served with a written notice of motion for an order of default at least 20 days before the date of entry of the order of default. The notice of a motion for an order of default shall include the following:

(i) The date of filing of the notice to answer and formal complaint and the date of service.

(ii) That the respondent attorney has not timely filed an answer as required by rule 4.5.

(iii) That state bar counsel intends to seek an order of default.

(iv) The following notice substantially in the following form:

YOUR DEFAULT WILL BE ENTERED IF NO ANSWER IS FILED WITH THE BAR ASSOCIATION WITHIN 20 DAYS OF SERVICE OF THIS NOTICE OF A MOTION FOR AN ORDER OF DEFAULT. ENTRY OF AN ORDER OF DEFAULT WILL RESULT IN THE ALLEGATIONS SET FORTH IN THE FORMAL COMPLAINT(S) BEING ADMITTED AND DISCIPLINE RECOMMENDED OR IMPOSED BASED ON THOSE ADMITTED ALLEGATIONS. IF THE ORDER OF DEFAULT IS ENTERED, YOU WILL LOSE THE OPPORTUNITY TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS AND UNTIL THE ORDER OF DEFAULT IS VACATED ON A TIMELY MOTION SETTING FORTH THE PROPER GROUNDS. SEE SECTION (c). THE ENTRY OF AN ORDER OF DEFAULT MEANS THAT YOU WILL RECEIVE NO FURTHER NOTICES REGARDING THESE PROCEEDINGS EXCEPT THOSE REQUIRED BY SECTION (b)(2).

(3) Service. Service of the motion for an order of default shall be as provided in rule 12.1.

(4) Entry of Order of Default. If the respondent lawyer fails to file a written answer with the Bar Association within 20 days after service of the notice of the motion for entry of an order of default, the hearing officer or panel, shall, upon proof of proper service of the notice of motion for an order of default, enter an order finding the respondent lawyer in default. The order of default shall contain notice substantially in the following form:

AN ORDER OF DEFAULT HAS BEEN ENTERED AGAINST YOU BECAUSE OF YOUR FAILURE TO TIMELY FILE AN ANSWER TO THE FORMAL COMPLAINT(S) FILED IN THIS PROCEEDING. THE ALLEGATIONS SET FORTH IN THE FORMAL COMPLAINT(S) HAVE BEEN DEEMED ADMITTED AND DISCIPLINE MAY BE IMPOSED UPON YOU BASED ON THOSE ADMITTED ALLEGATIONS. YOU MAY NOT PARTICIPATE FURTHER IN THESE DISCIPLINARY PROCEEDINGS UNLESS AND UNTIL THE ORDER OF DEFAULT IS VACATED ON A TIMELY MOTION SETTING FORTH THE PROPER GROUNDS. THIS ORDER OF DEFAULT MEANS THAT YOU WILL RECEIVE NO FURTHER NOTICES REGARDING THESE PROCEEDINGS EXCEPT THOSE REQUIRED BY SECTION (b)(2).

(b) Proceedings After Entry of an Order of Default.

(1) Service of the order of default shall be as provided in rule 12.1.

(2) After entry of an order of default no further notices shall be served upon the respondent lawyer except for copies of the decisions of the hearing panel and the Disciplinary Board.

(3) A formal disciplinary hearing shall occur no later than 60 days after filing of the order of default. The hearing panel officer shall be entitled to rely upon properly served requests for admission served upon the respondent pursuant to rule 4.7(b). Depositions may be used as evidence regardless of the availability of the person testifying at the deposition. Affidavits or declarations are also admissible, if the facts stated in the affidavits are within the personal knowledge of the affiant, if the facts are set forth with particularity and if the affidavit to be offered in evidence shows affirmatively that the affiant if sworn as a witness could testify competently to the facts set forth in the affidavit.

(c) Setting Aside Default.

(1) Motion To Vacate Order of Default. A respondent lawyer may file a motion to vacate the order of default and any decision of the hearing officer or panel or Disciplinary Board arising from the default on the following grounds:

- (i) Mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining the default;
- (ii) For erroneous proceedings against a respondent who was, at the time of the default, incapable of conducting a defense;
- (iii) Newly discovered evidence which by due diligence could not have been previously discovered;
- (iv) Fraud, misrepresentation or other misconduct of an adverse party;
- (v) The order of default is void;
- (vi) Unavoidable casualty or misfortune preventing the respondent from defending;
- (vii) Any other reason justifying relief from the operation of the default.

(2) Time. The motion shall be made within a reasonable time and for reasons (i) and (iii) not more than 1 year after the default was entered. If the respondent's motion is based upon allegations of incapability of conducting a defense, the motion shall be made within 1 year after the disability ceases.

(3) Burden of Proof. The burden of proving the grounds for setting aside the default shall be upon the respondent. If the respondent proves that the default was entered as a result of a disability which made the respondent incapable of conducting a defense, the default shall be set aside.

(4) Service and Contents of Motion. The motion shall be filed and served as provided in rules 12.1 and 12.2. The motion shall be accompanied by a copy of respondent's proposed answer to the formal complaint(s) as to which an order of default has been entered. The proposed answer shall set forth with specificity the respondent's asserted defenses and any facts that respondent asserts as mitigation. The motion to vacate the order of default shall be supported by an affidavit showing (i) the date on which the respondent first learned of the entry of the order of default; (ii) the reasons or grounds for setting aside the order of default; and (iii) an offer of proof of the facts which the respondent expects to show if the order of default is vacated.

(5) Response to Motion. Within 10 days after filing and service of the motion to vacate, state bar counsel may file and serve a written response to the motion.

(6) Decision. The motion to vacate the order of default shall be decided by the hearing officer or panel. In the event that the proceedings have been concluded, the chairperson of the Disciplinary Board shall appoint a hearing officer or panel to decide the motion for default. The motion shall be decided on the written record without oral argument. Pending a ruling on the motion the hearing officer or panel may order a stay of proceedings not to exceed 30 days. In granting a motion to vacate an order of default, the hearing officer or panel has discretion to order such conditions as appear proper.

(7) Appeal of Denial of Motion. A decision by the hearing officer or panel denying a motion for an order vacating an order of default may be appealed to the chairperson of the Disciplinary Board if the respondent lawyer files and serves a written notice of appeal which sets forth the arguments against the hearing officer or panel's decision. The notice of appeal must be filed within 10 days of service of the order denying the motion upon the respondent. The appeal shall be decided on the written record without oral argument. Pending a ruling on the appeal the chairperson may order a stay of proceedings not to exceed 30 days. In granting a motion for order vacating an order of default, the chairperson has discretion to order such conditions as appear proper.

(8) Decision To Vacate Is Final. There shall be no appeal from an order setting aside an order of default.

(d) Order of Default Not Authorized in Certain Proceedings. The default proceedings outlined in this rule shall not be used in any proceeding to inquire into a lawyer's competency under Title 10 of the Rules for Lawyer Discipline.

AMENDMENT TO
RULES OF EVIDENCE
ER 1101(d)
[NEW RULE]

(d) Arbitration Hearings. In a mandatory arbitration hearing under RCW 7.06, the admissibility of evidence is governed by MAR 5.3.

RAP 2.2(d)

(d) Multiple Parties or Multiple Claims or Counts. In any case with multiple parties or multiple claims for relief, or in a criminal case with multiple counts, an appeal may be taken from a final judgment which does not dispose of all the claims or counts as to all the parties, but only after an express direction by the trial court for entry of judgment and an express determination in the judgment, supported by a written findings, that there is no just reason for delay. The findings may be made at the time of entry of judgment or thereafter on the court's own motion or on motion of any party. The time for filing notice of appeal begins to run from the entry of the required findings. In the absence of the required findings, determination and direction, a judgment that adjudicates less than all the claims or counts, or adjudicates the rights and liabilities of less than all the parties, is subject only to discretionary review until the entry of a final judgment adjudicating all the claims, counts, rights, and liabilities of all the parties.

AMENDMENTS TO
SUPERIOR COURT CIVIL RULES
CR 2A
STIPULATIONS

No agreement or consent between parties or attorneys in respect to the proceedings in a cause, the purport of which is disputed, will be regarded by the court unless the same shall have been made and assented to in open court ~~before a court reporter on the record~~, or entered in the minutes, or unless the evidence thereof shall be in writing and subscribed by the attorneys denying the same.

CR 4(b)

CR 4.1
PROCESS—DOMESTIC RELATIONS ACTIONS

(b) Summons.

(1) Contents. The summons for personal service shall contain:

(i) the title of the cause, specifying the name of the court in which the action is brought, the name of the county designated by the plaintiff as the place of trial, and the names of the parties to the action, plaintiff and defendant;

(ii) a direction to the defendant summoning him to serve a copy of his defense within a time stated in the summons;

(iii) a notice that, in case of failure so to do, judgment will be rendered against him by default. It shall be signed and dated by the plaintiff, or his attorney, with the addition of his post office address, at which the papers in the action may be served on him by mail.

(2) Form. Except in condemnation cases, and except as provided in rule 4.1, the summons for personal service in the state shall be substantially in the following form:

SUPERIOR COURT OF WASHINGTON
FOR [] COUNTY

Plaintiff, } No. _____
v. }
Defendant. }
SUMMONS [20 days]

TO THE DEFENDANT: A lawsuit has been started against you in the above entitled court by _____, plaintiff. Plaintiff's claim is stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and by serving a copy upon the person signing this summons within 20 days after the service of this summons, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where plaintiff is entitled to what he asks for because you have not responded. If you serve a notice of appearance on the undersigned person, you are entitled to notice before a default judgment may be entered.

You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand must be in writing and must be served upon the person signing this summons. Within 14 days after you serve the demand, the plaintiff must file this lawsuit with the court, or the service on you of this summons and complaint will be void.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

This summons is issued pursuant to rule 4 of the Superior Court Civil Rules of the State of Washington.

[signed] _____

Print or Type Name

() Plaintiff () Plaintiff's Attorney

P. O. Address _____

Dated _____ Telephone Number _____

(a) Summons—General. Actions authorized by RCW 26.09 shall be commenced by filing a petition: or by service of the a copy of a summons and together with a copy of the petition shall be made on respondent as provided in rule 4. Upon written demand by the respondent, the petitioner shall pay the filing fee and file the summons and petition within 14 days after service of the demand or the service shall be void. No summons is necessary if both spouses sign a joint petition or if the respondent files a written joinder in the proceeding.

(b) Summons—Content, Form.

(1) Content. The summons shall contain the title of the action, the name of the county and the court in which the action is brought, the names of the parties, as petitioner and respondent, a direction to the respondent to serve a copy of his or her response on the person who has signed the summons, the time limit within which the copy of the response must be served, notice that failure to serve a copy of the response within the stated time may result in a judgment by default, the signature and address of the petitioner or petitioner's attorney, and the date.

(2) Form. The summons for personal service in the state in an action for dissolution of marriage shall be substantially in the form below. The summons for personal service in the state in any other action authorized by RCW 26.09 should be adapted from this form. The summons for personal service out of state should be adapted from this form and must include the modifications required by statute. See RCW 4.28.180.

SUPERIOR COURT OF WASHINGTON
FOR [] COUNTY

In the Matter of the }
Marriage of } No. _____
Petitioner, }
and }
Respondent. }
SUMMONS FOR
DISSOLUTION OF
MARRIAGE

TO THE RESPONDENT: The petitioner has filed with the clerk of started an action in the above court a petition requesting that your marriage be dissolved. Additional requests, if any, are stated in the petition, a copy of which is attached to this summons.

You may must respond to this summons and petition by filing a written response with the clerk of the court and serving a copy of your written response on the person signing this summons. If you do not serve your written response within 20 days after the date this summons was served on you, exclusive of the day of service, the court may enter an order of default against you, and at the end of 90 days after service and filing, the court may, without further notice to you, enter a decree dissolving your marriage and approving or providing for other relief requested in the petition. If you serve a notice of appearance on the undersigned person, you are entitled to notice before an order of default or a decree may be entered.

You may demand that the petitioner file this action with the court. If you do so, the demand must be in writing and must be served upon the person signing this summons. Within 14 days after you serve the demand, the petitioner must file this action with the court, or the service on you of this summons and petition will be void.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

One method of filing your response and serving a copy of your response on the petitioner is to send them it by certified mail with return receipt requested.

This summons is issued pursuant to rule 4.1 of the Superior Court Civil Rules of the State of Washington.

Dated _____ [signed] _____

Print or Type Name
~~FILE~~ SERVE A COPY OF YOUR RESPONSE WITH ON:
() Petitioner () Petitioner's Attorney

Clerk of the Court

County Courthouse SERVE A COPY OF YOUR RESPONSE ON:

Address _____ Address _____
_____, WA _____, WA
(city) _____ (zip) (city) _____ (zip)

CR 10(d)

(d) Paper Size. All pleadings, motions, and other papers shall be plainly written or printed, and, except for exhibits, the use of letter-size paper (8 1/2 by 11 inches) is optional: mandatory. The use of letter-size copies of exhibits is encouraged if it does not impair legibility.

CR 26(c)

(c) Protective Orders. Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending or alternatively, on matters relating to a deposition, the court in the county where the deposition is to be taken may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (1) that the discovery not be had; (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place; (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery; (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters; (5) that discovery be conducted with no one present except persons designated by the court; (6) that the contents of a deposition after being sealed be opened only by order of the court not be disclosed or be disclosed only in a designated way; (7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; (8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of rule 37 (a)(4) apply

to the award of expenses incurred in relation to the motion.

CR 26(h)
[NEW RULE]

(h) Use of Discovery Materials. A party filing discovery materials on order of the court or for use in a proceeding or trial shall file only those portions upon which the party relies and may file a copy in lieu of the original.

CR 30(b)

(b) Notice of Examination: General Requirements; Special Notice; Nonstenographic Recording; Production of Documents and Things; Deposition of Organization; Video Tape Recording.

(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing of not less than 5 days (exclusive of the day of service, Saturdays, Sundays and court holidays) to every other party to the action and to the deponent, if not a party or a managing agent of a party. Notice to a deponent who is not a party or a managing agent of a party may be given by mail or by any means reasonably likely to provide actual notice. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice. A party seeking to compel the attendance of a deponent who is not a party or a managing agent of a party must serve a subpoena on that deponent in accordance with rule 45. Failure to give 5 days' notice to a deponent who is not a party or a managing agent of a party may be grounds for the imposition of sanctions in favor of the deponent, but shall not constitute grounds for quashing the subpoena.

(2) Leave of court is not required for the taking of a deposition by plaintiff if the notice (A) states that the person to be examined is about to go out of the state and will be unavailable for examination unless his deposition is taken before expiration of the 30-day period, and (B) sets forth facts to support the statement. The plaintiff's attorney shall sign the notice, and his signature constitutes a certification by him that to the best of his knowledge, information, and belief the statement and supporting facts are true. The sanctions provided by rule 11 are applicable to the certification.

If a party shows that when he was served with notice under this subsection (b)(2) he was unable through the exercise of diligence to obtain counsel to represent him at the taking of the deposition, the deposition may not be used against him.

(3) The court may for cause shown enlarge or shorten the time for taking the deposition.

(4) The parties may stipulate in writing or the court may upon motion order that the testimony at a deposition be recorded by other than stenographic means. The stipulation or the order shall designate the person before

whom the deposition shall be taken, the manner of recording, preserving, and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. A party may arrange to have a stenographic transcription made at his own expense. Any objections under section (c), any changes made by the witness, his signature identifying the deposition as his own or the statement of the officer that is required if the witness does not sign, as provided in section (e), and the certification of the officer required by section (f) shall be set forth in a writing to accompany a deposition recorded by nonstenographic means.

(5) The notice to a party deponent may be accompanied by a request made in compliance with rule 34 for the production of documents and tangible things at the taking of the deposition. The procedure of rule 34 shall apply to the request.

(6) A party may in his notice and in a subpoena name as the deponent a public or private corporation or a partnership or association or governmental agency and designate with reasonable particularity the matters on which examination is requested. In that event the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters known on which he will testify. A subpoena shall advise a nonparty organization of its duty to make such a designation. The persons so designated shall testify as to the matters known or reasonably available to the organization. This subsection (b)(6) does not preclude taking a deposition by any other procedure authorized in these rules.

(7) The parties may stipulate in writing or the court may upon motion order that a deposition be taken by telephone or by other electronic means. For the purposes of this rule and rules 28(a), 37 (a)(1), 37 (b)(1), and 45(d), a deposition taken by telephone or by other electronic means is taken at the place where the deponent is to answer questions propounded to him.

(8) Videotaping of depositions.

(A) Any party may videotape the deposition of any party or witness without leave of court provided that written notice is served on all parties not less than 20 days before the deposition date, and specifically states that the deposition will be recorded on videotape. Failure to so state shall preclude the use of videotape equipment at the deposition, absent agreement of the parties or court order.

(B) No party may videotape a deposition within 120 days of the later of the date of filing or service of the lawsuit, absent agreement of the parties or court order.

(C) On motion of a party made prior to the deposition, the court shall order that a videotape deposition be postponed or begun subject to being continued, on such terms as are just, if the court finds that the deposition is to be taken before the moving party has had an adequate opportunity to prepare, by discovery deposition of the deponent or other means, for cross examination of the deponent.

(D) Unless otherwise stipulated to by the parties, the expense of videotaping shall be borne by the noting party and shall not be taxed as costs. Any party, at that party's expense, may obtain a copy of the videotape.

(E) A stenographic record of the deposition shall be made simultaneously with the videotape at the expense of the noting party.

(F) The area to be used for videotaping testimony shall be suitable in size, have adequate lighting and be reasonably quiet. The physical arrangements shall be fair to all parties. The deposition shall begin by a statement on the record of: (a) the operator's name, address and telephone number, (b) the name and address of the operator's employer, (c) the date, time and place of the deposition, (d) the caption of the case, (e) the name of the deponent, and (f) the name of the party giving notice of the deposition. The officer before whom the deposition is taken shall be identified and swear the deponent on camera. At the conclusion of the deposition, it shall be stated on the record that the deposition is concluded. When more than one tape is used, the operator shall announce on camera the end of each tape and the beginning of the next tape.

(G) Absent agreement of the parties or court order, if all or any part of the videotape will be offered at trial, the party offering it must order the stenographic record to be fully transcribed at that party's expense. A party intending to offer a videotaped recording of a deposition in evidence shall notify all parties in writing of that intent and the parts of the deposition to be offered within sufficient time for a stenographic transcript to be prepared, and for objections to be made and ruled on before the trial or hearing. Objections to all or part of the deposition shall be made in writing within sufficient time to allow for rulings on them and for editing of the tape. The court shall permit further designations of testimony and objections as fairness may require. In excluding objectionable testimony or comments or objections of counsel, the court may order that an edited copy of the videotape be made, or that the person playing the tape at trial suppress the objectionable portions of the tape. In no event, however, shall the original videotape be affected by any editing process.

(H) After the deposition has been taken, the operator of the videotape equipment shall attach to the videotape a certificate that the recording is a correct and complete record of the testimony by the deponent. Unless otherwise agreed by the parties on the record, the operator shall retain custody of the original videotape. The custodian shall store it under conditions that will protect it against loss or destruction or tampering, and shall preserve as far as practicable the quality of the tape and the technical integrity of the testimony and images it contains. The custodian of the original videotape shall retain custody of it until 6 months after final disposition of the action, unless the court, on motion of any party and for good cause shown, orders that the tape be preserved for a longer period.

(I) The use of videotaped depositions shall be subject to rule 32.

CR 33(a)

(a) Availability; Procedures for Use. Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may, without leave of court, be served upon the plaintiff after the summons and a copy of the complaint are served upon the defendant, or the complaint is filed, whichever shall first occur, and upon any other party with or after service of the summons and complaint upon that party.

Interrogatories shall be so arranged that after each separate question there shall appear a blank space reasonably calculated to enable the answering party to have his answer typed in. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within ~~20~~ 30 days after the service of the interrogatories, except that a defendant may serve answers or objections within 40 days after service of the summons and complaint upon that defendant. The parties may stipulate or any party may move for an order under rule 37(a) with respect to any objection to or other failure to answer an interrogatory.

CR 34(b)

(b) Procedure. The request may, without leave of court, be served upon the plaintiff after the summons and a copy of the complaint are served upon the defendant, or the complaint is filed, whichever shall first occur, and upon any other party with or after service of the summons and complaint upon that party. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place and manner of making the inspection and performing the related acts.

The party upon whom the request is served shall serve a written response within ~~20~~ 30 days after the service of the request, except that a defendant may serve a response within 40 days after service of the summons and complaint upon that defendant. The parties may stipulate or the court may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

A party who produces documents for inspection shall produce them as they are kept in the usual course of

business or shall organize and label them to correspond with the categories in the request.

CR 36(a)

(a) Request for Admission. A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of rule 26(b) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of court, be served upon the plaintiff after the summons and a copy of the complaint are served upon the defendant, or the complaint is filed, whichever shall first occur, and upon any other party with or after service of the summons and complaint upon that party. Requests for admission shall not be combined in the same document with any other form of discovery.

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within ~~20~~ 30 days after service of the request, or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney, but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of 40 days after service of the summons and complaint upon him. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial or a central fact in dispute may not, on that ground alone, object to the request; he may, subject to the provisions of rule 37(c), deny the matter or set forth reasons why he cannot admit or deny it.

The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pretrial conference or at a designated time prior to trial. The

provisions of rule 37 (a)(4) apply to the award of expenses incurred in relation to the motion.

CR 47(b)

(b) Alternate Jurors. The court may direct that not more than six jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, and privileges as the regular jurors. An alternate juror who does not replace a regular juror shall be discharged after the jury retires to consider its verdict. Each side is entitled to one peremptory challenge in addition to those otherwise allowed by law if one or two alternate jurors are to be impaneled, two peremptory challenges if three or four alternate jurors are to be impaneled, and three peremptory challenges if five or six alternate jurors are to be impaneled. The additional peremptory challenges may be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against an alternate juror. An alternate juror who does not replace a regular juror may be discharged or temporarily excused after the jury retires to consider its verdict. When an alternate juror is temporarily excused but not discharged, the trial judge shall take appropriate steps to protect such juror from influence, interference or publicity which might affect that juror's ability to remain impartial, and the trial judge may conduct brief voir dire before seating such alternate juror for any trial or deliberations. An alternate juror may be recalled at any time that a regular juror is unable to serve, provided that the original jury has not returned any verdicts or findings. If the jury has commenced deliberations prior to the replacement of a regular juror with an alternate juror, the jury shall be instructed to disregard all previous deliberations and to begin deliberations anew.

CR 54(b)

(b) Judgment Upon Multiple Claims or Involving Multiple Parties. When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross claim, or third party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination in the judgment, supported by written findings, that there is no just reason for delay and upon an express direction for the entry of judgment. The findings may be made at the time of entry of judgment or thereafter on the court's own motion or on motion of any party. In the absence of such findings, determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating

all the claims and the rights and liabilities of all the parties.

CR 59(b)

(b) Time for Motion; Contents of Motion. A motion for a new trial or for reconsideration shall be served and filed not later than 10 days after the entry of the judgment. The motion shall be noted at the time it is filed, to be heard or otherwise considered within 30 days after the entry of judgment unless the court directs otherwise.

A motion for a new trial or for reconsideration shall identify the specific reasons in fact and law as to each ground on which the motion is based.

CR 65(c)

(c) Security. ~~Except as where the court in issuing orders pursuant to RCW 26.09 (marriage dissolution and related proceedings) directs otherwise provided by statute, no restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained. No such security shall be required of the United States or of an officer or agency thereof. Pursuant to RCW 4.92.080 no security shall be required of the State of Washington, municipal corporations or political subdivisions of the State of Washington.~~

The provisions of rule 65.1 apply to a surety upon a bond or undertaking under this rule.

AMENDMENTS TO
SUPERIOR COURT MANDATORY ARBITRATION RULES
MAR 1.2
MATTERS SUBJECT TO ARBITRATION

A civil action, other than an appeal from a court of limited jurisdiction, is subject to arbitration under these rules if the action is at issue in a superior court in a county which has authorized mandatory arbitration under RCW 7.06, ~~if the sole relief sought is a money judgment, and if (1) no party asserts a claim in excess of the amount authorized by (1) the action is subject to mandatory arbitration as provided in RCW 7.06.020 as determined by local superior court rule, exclusive of attorney fees, interest and costs, or if, (2) all parties, for purposes of arbitration only, waive claims in excess of the amount described in subsection (1), authorized by RCW 7.06, exclusive of attorney fees, interest and costs, or (3) the parties have stipulated to arbitration pursuant to rule 8.1. Other matters may be arbitrated under these rules only by stipulation under rule 8.1.~~

MAR 1.3(b)

(b) Which Rules Apply.

(1) Generally. Until a case is assigned to the arbitrator under rule 2.3, the rules of civil procedure apply. After a case is assigned to the arbitrator, these arbitration rules apply except where an arbitration rule states that a civil rule applies.

(2) Service. After a case is assigned to an arbitrator, all pleadings and other papers shall be served in accordance with CR 5 and filed with the arbitrator.

(3) Time. Except as provided in rule 7.1, time shall be computed in accordance with CR 6 (a) and (e).

(4) Voluntary Dismissal. The arbitrator shall have the power to dismiss an action, under the same conditions and with the same effect as set forth in CR 41(a), at any time prior to the filing of an award.

MAR 3.2
AUTHORITY OF ARBITRATORS

An arbitrator has the authority to:

(1) Decide procedural issues arising before or during the arbitration hearing, except issues relating to the qualifications of an arbitrator;

(2) Invite, with reasonable notice, the parties to submit trial briefs;

(3) Examine any site or object relevant to the case;

(4) Issue a subpoena under rule 4.3;

(5) Administer oaths or affirmations to witnesses;

(6) Rule on the admissibility of evidence under rule 5.3;

(7) Determine the facts, decide the law, and make an award;

(8) Perform other acts as authorized by these rules or local rules adopted and filed under rule 8.2.

Motions for involuntary dismissal and motions for summary judgment shall be decided by the court and not by the arbitrator.

MAR 5.3
CONDUCT OF HEARING—WITNESSES—RULES OF EVIDENCE

(a) Witnesses. The arbitrator shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the facts, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment. A witness shall be placed under oath or affirmation by the arbitrator prior to presenting testimony, a violation of which oath shall be deemed a contempt of court in addition to any other penalties that may be provided by law. The arbitrator may question a witness. ~~The extent to which the Rules of Evidence will be applied shall be determined in the exercise of discretion of the arbitrator.~~

(b) Recording. The hearing may be recorded electronically or otherwise by any party or the arbitrator.

(c) Rules of Evidence, Generally. The extent to which the Rules of Evidence will be applied shall be determined in the exercise of discretion of the arbitrator. The Rules of Evidence, to the extent determined by the arbitrator to be applicable, should be liberally construed in order to promote justice. The parties should stipulate to the admission of evidence when there is no genuine issue as to its relevance or authenticity.

(d) Certain Documents Presumed Admissible. The documents listed below, if relevant, are presumed admissible at an arbitration hearing, but only if (1) the party offering the document serves on all parties a notice, accompanied by a copy of the document and the

name, address and telephone number of its author or maker, at least 14 days prior to the hearing in accordance with MAR 5.2; and (2) the party offering the document similarly furnishes all other related documents from the same author or maker. This rule does not restrict argument or proof relating to the weight of the evidence admitted, nor does it restrict the arbitrator's authority to determine the weight of the evidence after hearing all of the evidence and the arguments of opposing parties. The documents presumed admissible under this rule are:

(1) A bill, report, chart, or record of a hospital, doctor, dentist, registered nurse, licensed practical nurse, physical therapist, psychologist or other health care provider, on a letterhead or billhead;

(2) A bill for drugs, medical appliances or other related expenses on a letterhead or billhead;

(3) A bill for, or an estimate of, property damage on a letterhead or billhead. In the case of an estimate, the party intending to offer the estimate shall forward with the notice to the adverse party a statement indicating whether or not the property was repaired, and if it was, whether the estimated repairs were made in full or in part, attaching a copy of the receipted bill showing the items of repair and the amount paid;

(4) A police, weather, wage loss, or traffic signal report, or standard United States government life expectancy table to the extent it is admissible under the Rules of Evidence, but without the need for formal proof of authentication or identification;

(5) A photograph, x-ray, drawing, map, blueprint or similar documentary evidence, to the extent it is admissible under the Rules of Evidence, but without the need for formal proof of authentication or identification;

(6) The written statement of any other witness, including the written report of an expert witness, and including a statement of opinion which the witness would be allowed to express if testifying in person, if it is made by affidavit or by declaration under penalty of perjury;

(7) A document not specifically covered by any of the foregoing provisions but having equivalent circumstantial guaranties of trustworthiness, the admission of which would serve the interests of justice.

(e) Opposing Party May Subpoena Author or Maker as Witness. Any other party may subpoena the author or maker of a document admissible under this rule, at that party's expense, and examine the author or maker as if under cross examination.

MAR 7.1(a)

(a) Service and Filing. Within 20 days after the arbitration award is filed with the clerk, any aggrieved party not having waived the right to appeal may serve and file with the clerk a written request for a trial de novo in the superior court along with proof that a copy has been served upon all other parties appearing in the case. The 20-day period within which to request a trial de novo may not be extended. The request for a trial de novo shall not refer to the amount of the award and shall be in the following form:

SUPERIOR COURT OF WASHINGTON
FOR _____ COUNTY

Plaintiff,
v.

Defendant.

No. _____
REQUEST FOR
TRIAL DE NOVO

TO: The clerk of the court and all parties:

Please take notice that [name of aggrieved party] requests a trial de novo from the award filed [date].

Dated: _____

[Name of attorney
for aggrieved party]

MAR 7.2

PROCEDURE AT TRIAL AFTER REQUEST FOR TRIAL DE NOVO

(a) Sealing. The clerk shall seal any award if a trial de novo is requested.

(b) No Reference to Arbitration; Use of Testimony.

(1) The trial de novo shall be conducted as though no arbitration proceeding had occurred. If tried to a jury, no reference may shall be made to the arbitration award, in any pleading, brief, or other written or oral statement to the trial court or jury either before or during the trial, to the arbitration award nor, in a jury trial, shall the jury be informed that to the fact there had has been an arbitration proceeding, or to any other aspect of the arbitration proceeding.

(2) Testimony given during the arbitration proceeding is admissible in subsequent proceedings to the extent allowed by the Rules of Evidence, except that the testimony shall not be identified as having been given in an arbitration proceeding.

(c) Relief Sought. The relief sought at a trial de novo shall not be restricted by RCW 7.06, local arbitration rule, or any prior waiver or stipulation made for purposes of arbitration.

(d) Arbitrator as Witness. The arbitrator shall not be called as a witness at the trial de novo.

MAR 7.3

COSTS AND ATTORNEY FEES

The court shall assess costs and reasonable attorney fees against a party who appeals the award and fails to improve the party's position on the trial de novo. The court may assess costs and reasonable attorney fees against a party who voluntarily withdraws a request for a trial de novo. Only those costs and reasonable attorney fees incurred after a request for a trial de novo is filed may be assessed under this rule.

AMENDMENTS TO
SUPERIOR COURT SPECIAL PROCEEDINGS RULES
SPR 90.04W

ATTACHMENTS—DUTIES OF THE SHERIFF

Immediately upon the receipt of a writ of attachment, the sheriff or other officer shall endorse thereon, in ink, the day, hour, and minute when the same first came into

his the officer's hands. When there are several attachments against the same defendant, they shall be executed in the order in which they were received by the sheriff.

SPR 91.04W

GARNISHMENTS—SERVICE, OBJECTIONS, ETC.
[RESCINDED]

(a) Methods of Service. In any case where a writ of garnishment has issued, the party at whose instance the writ was issued shall, on or before the day of the service of the writ on the garnishee, mail, or cause to be mailed; by certified mail, a copy of the writ to the defendant or judgment debtor in said cause at his last known post office address, or, in the alternative, a copy of the writ shall be served upon the defendant or judgment debtor in the same manner as is required for personal service of summons upon a party to an action on or before the day of the service of said writ on the garnishee or within 2 days thereafter.

(b) Irregularities. This requirement shall not be deemed jurisdictional, but if the copy is not mailed or served as herein provided, or any irregularity shall appear with respect to the mailing or service, the court may, in its discretion on motion of the defendant or judgment debtor promptly made and supported by affidavit showing that he has suffered substantial injury from the failure to mail said copy, set aside the said garnishment.

(c) Objections. The judgment debtor shall make any objections to the entry of judgment based upon the answer of a garnishee prior to the expiration of the time within which the garnishment should have been answered.

(d) Judgment Against Garnishee. No judgment based on the answer of the garnishee, or upon failure to answer shall be entered prior to the expiration of the time within which the garnishee is required to answer.

(e) Proof of Service. The date of service of the writ of garnishment on the defendant and on the garnishee shall be determined by proof of service or by such other evidence deemed by the court to be satisfactory.

(f) Applicability. This rule shall apply to garnishments in both the superior courts and justice courts in the state of Washington and shall supplement RCW 7.33.

SPR 93.04W

DISPOSITION OF REPORTS—ADOPTIONS

Any report filed by the next friend of the child in any adoption proceeding insofar as it affects or concerns the adopters shall be open to inspection by the adopter and his attorney. Such report at the close of the entire proceeding shall be sealed and filed by the clerk in the record of the adoption proceeding, or in the discretion of the court shall be destroyed and, in any event, it shall not be disclosed to any person without a special order therefor in writing by the judge, and shall thereafter be sealed as before. In an adoption proceeding, any report prepared pursuant to RCW 26.33 shall be open to inspection by the adoptive parents and the attorney for the adoptive parents. Such report at the close of the entire

proceeding shall be sealed in accordance with RCW 26.33.330.

SPR 98.08W

ESTATES—SETTLEMENT OF CLAIMS BY EXECUTORS,
ADMINISTRATORS AND RECEIVERS, GUARDIAN,
RECEIVER, OR PERSONAL REPRESENTATIVE

In all actions or proceedings in which ~~executors, administrators, receivers, or other persons~~ a guardian, receiver, personal representative, or other person having charge or of settlement of any estate, apply ~~applies~~ to the court for an order allowing a claim to be compromised and settled for less than its face value, the court shall appoint a day not less than 5 days after such application for hearing the same, unless for good cause shown less time should intervene, and direct the giving of such notice as may be deemed proper.

SPR 98.12W

ESTATES GENERALLY—FEES

Before compensation shall be allowed to any ~~executor, administrator, personal representative, guardian, or attorney~~ in connection with any probate matter or proceeding, or to any receiver or his ~~an~~ attorney; for a receiver, and before any agreement therefor shall be approved, the amount of compensation claimed shall be definitely and clearly set forth in the application therefor, and all parties interested in the matter shall be given notice of the amount claimed in such manner as shall be fixed by statute, or, in the absence of statute, as shall be directed by the court; unless such application be filed with or made a part of a report or final account of such executor, administrator, personal representative, guardian, or receiver, or attorney.

SPR 98.16W

ESTATES—GUARDIANSHIP—JUDGMENT FOR AND
SETTLEMENT OF CLAIMS OF MINORS

(a) Representation. In every case where there is a settlement involving a beneficial interest or claim of a person under the age of 18, hereinafter referred to as a minor, the court must appoint an independent guardian ad litem to investigate the adequacy of the offered settlement and file a written report. Said guardian ad litem shall be an attorney ~~at law~~ and shall ~~serve in said capacity with neither have nor represent interests in conflict with those of the minor. The guardian ad litem shall have the authority to withdraw funds on order of the court after ex parte hearing on petition setting forth the grounds therefor, on behalf of the minor by order until the minor attains the age of 18 or until relieved by the court. The court may dispense with the appointment of the guardian ad litem if a general guardian or limited guardian has been previously appointed or if the court affirmatively finds that the minor is represented by independent counsel, provided that the guardian, limited guardian, or independent counsel neither has nor represents interests in conflict with those of the minor.~~

(b) Hearing. At the time the petition for approval of the settlement is heard, the allowance and taxation of all fees, costs, and other charges incident to the settlement of the minor's claim shall be considered and disposed of by the court.

(c) Deposit in Court and Disbursements. Except as otherwise provided in sections (d) and (e), the total judgment or settlement shall be paid into the registry of the court. All sums deductible therefrom including costs, attorney fees, hospital and medical expenses, and any other expense, shall be paid upon approval of the court.

(d) Control of Remaining Funds.

(1) Under \$10,000. If the money or the value of other property remaining is \$10,000 or less and there is no general guardian or limited guardian of the ward, the court shall require that (A) the money be deposited in a bank or trust company or be invested in an account in an insured financial institution for the benefit of the ward subject to withdrawal only upon the order of the court as a part of the original proceeding, or (B) a general guardian or limited guardian be appointed and the money or other property be paid or delivered to such guardian, and/or (C) the money or other property be placed in trust, with both the selection of the trustee and the terms of the trust to be subject to the court's approval; subject to the conditions set forth in subsection (3).

(2) Over \$10,000. If the money or the value of other property remaining exceeds \$10,000, and there is no general guardian or limited guardian of the ward, the court in the order or judgment shall require that either (A) a general guardian or limited guardian be appointed and/or (B) the money or other property be placed in trust, with both the selection of the trustee and the terms of the trust to be subject to the court's approval; subject to the conditions set forth in subsection (3).

(3) Conditions for Use of Trust. A trust under subsections (1) or (2) must meet the following requirements:

(A) The selection of the trustee(s) and the terms of the trust shall be subject to the court's approval;

(B) No family member of a minor ward, or other potential residual beneficiary of the trust, shall be approved by the court as a sole trustee;

(C) A bonded or insured fiduciary shall be designated as sole trustee or as co-trustee with principal responsibility for financial management of the trust estate;

(D) The fiduciary shall prepare an annual statement of income, expenses, current assets, and fees charged; shall deliver the statement to any co-trustees, the beneficiary, and the beneficiary's personal representative; and shall present the statement for review and approval by the court having jurisdiction over the beneficiary;

(E) No family member or potential residual beneficiary who serves as a co-trustee shall exercise discretionary authority over individual expenditures from the trust that would bring direct or indirect benefit to that individual;

(F) The administration of the trust shall be subject to the continuing jurisdiction of the appropriate court.

(e) Deposit of Minor's Funds. Checks for funds that go to the minor may be made out by the clerk jointly to the depository bank, trust company, or insured financial institution and the independent attorney for the minor, guardian ad litem, ~~or general guardian or limited guardian, or trustee, and deposit shall be made to the trust or into a blocked account for the minor with provision~~

that withdrawals cannot be made except as provided in the trust instrument or as ordered by the ~~without~~ court order. A deposit receipt to that effect must forthwith be filed with the court by the attorney or guardian.

SPR 98.20W
ESTATES—GUARDIANSHIPS—AUTHORIZATION OF
EXPENDITURES
[RESCINDED]

~~Judges of the superior court in charge of probate, in directing and authorizing a guardian of the estate of the ward to make expenditures from the estate in monthly or other periodic installments, shall limit the term of such order to a period not greater than 12 months.~~

AMENDMENT TO SUPERIOR COURT CRIMINAL RULES
CrR 1.5
[NEW RULE]
STYLE AND FORM

All pleadings, motions, and other papers shall be plainly written or printed, and, except for exhibits, the use of letter-size paper (8 1/2 by 11 inches) is mandatory. The use of letter-size copies of exhibits is encouraged if it does not impair legibility.

CrR 6.5
ALTERNATE JURORS

When the jury is selected the court may direct the selection of one or more additional jurors, in its discretion, to be known as alternate jurors. Each party shall be entitled to one peremptory challenge for each alternate juror to be selected. When several defendants are on trial together, each defendant shall be entitled to one challenge in addition to the challenge provided above, with discretion in the trial judge to afford the prosecution such additional challenges as circumstances warrant. If at any time before submission of the case to the jury a juror is found unable to perform his duties the court shall order him discharged, and the clerk shall draw the name of an alternate who shall take his place on the jury.

Alternate jurors who do not replace a regular juror may be discharged or temporarily excused after the jury retires to consider its verdict. When jurors are temporarily excused but not discharged, the trial judge shall take appropriate steps to protect alternate jurors from influence, interference or publicity, which might affect that juror's ability to remain impartial and the trial judge may conduct brief voir dire before seating such alternate juror for any trial or deliberations. Such alternate juror may be recalled at any time that a regular juror is unable to serve, including the second phase of any trial that is bifurcated, provided that the original jury has not returned any verdicts or findings. If the jury has commenced deliberations prior to replacement of an initial juror with an alternate juror, the jury shall be instructed to disregard all previous deliberations and begin deliberations anew.

AMENDMENTS TO JUSTICE COURT ADMINISTRATIVE
RULES ~~JUSTICE COURT ADMINISTRATIVE RULES (JAR)~~
ADMINISTRATIVE RULES FOR COURTS OF LIMITED
JURISDICTION (ARLJ)

JAR 2
SCOPE OF RULES

These rules shall govern the procedure of civil, criminal, and traffic infraction cases in all courts of limited jurisdiction inferior to the superior court. They shall be construed to secure the just, speedy, and inexpensive determination of every action. Failure to set forth herein any provisions of common law or statute, not inconsistent with these rules, shall not be construed as an implied repeal thereof.

AMENDMENTS TO JUSTICE COURT CIVIL RULES
JCR 10(c)

(c) Form. All notices, pleadings, motions, and other papers filed shall be plainly written or typed, and, except for exhibits, the use of letter-size paper (8 1/2 by 11 inches) is mandatory. The use of letter-size copies of exhibits is encouraged if it does not impair legibility.

JCR 38(e)

(e) Alternate Jurors. The court may direct that not more than three jurors in addition to the regular jury be called and impaneled to serve as alternate jurors. Alternate jurors, in the order in which they are called, shall replace jurors who, prior to the time the jury retires to consider its verdict, are unable to continue. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges for cause, and shall take the same oath as the regular jurors. ~~An alternate juror who does not replace a regular juror shall be discharged after the jury retires to consider its verdict.~~ Each party shall be entitled to one additional peremptory challenge which may only be exercised against alternate jurors, and other peremptory challenges allowed shall not be used against alternate jurors. If the court has found that there is a conflict of interest between parties on the same side, the court may allow each conflicting party a peremptory challenge to exercise against alternate jurors. An alternate juror who does not replace a regular juror may be discharged or temporarily excused after the jury retires to consider its verdict. When an alternate juror is temporarily excused but not discharged, the trial judge shall take appropriate steps to protect such juror from influence, interference or publicity which might affect that juror's ability to remain impartial, and the trial judge may conduct brief voir dire before seating such alternate juror for any trial or deliberations. An alternate juror may be recalled at any time that a regular juror is unable to serve. If the jury has commenced deliberations prior to replacement of a regular juror with an alternate juror, the jury shall be instructed to disregard all previous deliberations and to begin deliberations anew.

JCR 85
TITLE

These rules may be known and cited as ~~Justice Court~~ Civil Rules for Courts of Limited Jurisdiction and they may be referred to as ~~JCR~~ CRLJ.

AMENDMENTS TO CRIMINAL RULES FOR COURTS OF
LIMITED JURISDICTION
CrRLJ 1.5
STYLE AND FORM

The complaint, citation and notice, warrant, summons, motions, briefs, orders, and all other papers or

forms required by these rules shall be plainly written, typed or printed. Except for exhibits and the citation and notice, the use of letter-size paper (8 1/2 by 11 inches) is mandatory. The use of letter-size copies of exhibits is encouraged if it does not impair legibility. The citation and notice shall be on a form prescribed or approved by the Office of the Administrator for the Courts.

(a) Form Prescribed by Administrator for the Courts. Traffic cases shall be filed on a form entitled "Notice of Traffic Infraction" prescribed by the Administrator for the Courts; except that the form used to file cases alleging the commission of a parking, standing or stopping infraction shall be approved by the Administrator for the Courts.

(b) Contents. The notice of traffic infraction shall contain the following information on the copy given to the defendant, except the information required by subsections (2) and (6) is not required on a notice of infraction alleging the commission of a parking, standing, or stopping infraction:

(1) The name, address, and phone number of the court where the notice of infraction is to be filed;

(2) The name, address, date of birth, sex, physical characteristics, and operator's license number of the defendant;

(3) The vehicle make, year, model, style, license number, and state in which licensed;

(4) The infraction which the defendant is alleged to have committed and the accompanying statutory citation or ordinance number, the date, time, and place the traffic infraction occurred, the date the notice of traffic infraction was issued, and the name and number of the citing officer;

(5) A statement that the defendant must respond to the notice of traffic infraction within 7 14 days of issuance;

(6) A space for the defendant to sign a promise to respond to the notice of infraction within the time required;

(7) A space for entry of the monetary penalty which respondent may pay in lieu of appearing in court;

(8) A statement that a mailed response must be mailed not later than midnight on the day the response is due;

(9) The statements required by RCW 46.63.060; and

(10) Any additional information determined necessary by the Administrator for the Courts.

RULE 2.2 INITIATION OF TRAFFIC CASES

(a) Generally. A traffic case is initiated by the issuance, service, and filing of a notice of traffic infraction in accordance with this rule.

~~(b) Only law Enforcement Officer May Issue. Only a law enforcement officer may issue a notice of traffic infraction.~~

(b) Who May Issue. A notice of infraction may be issued, upon certification that the issuer has probable cause to believe, and does believe, that a person has committed an infraction contrary to law:

(1) By an enforcement officer. The infraction need not have been committed in the officer's presence, except as provided by statute;

(2) By the prosecuting authority.

(c) Service of Notice. A notice of traffic infraction may be served either by:

(1) The law enforcement officer serving the notice of traffic infraction on the person named in the notice of traffic infraction at the time of issuance;

(2) The law enforcement officer affixing to a vehicle in a conspicuous place the notice of traffic infraction if it alleges the violation of a parking, standing, or stopping statute; or

(3) The law enforcement officer filing the notice of traffic infraction with the court, in which case the court shall have the notice served either personally or by mail, postage prepaid, on the person named in the notice of traffic infraction at his address. If a notice of traffic infraction served by mail is returned to the court as undeliverable, the court shall issue a summons.

(d) Filing of Notice. When a notice of traffic infraction has been issued, the notice shall be filed with a court having jurisdiction over the traffic infraction or with a violations bureau subject to such court's supervision. The notice must be filed within 48 hours after issuance of the notice, excluding Saturdays, Sundays, and holidays. A notice of traffic infraction not filed within the time limits of this section may be dismissed without prejudice.

RULE 2.3 VENUE

Except as otherwise specifically provided by statute, a ~~A~~ traffic case shall be brought in the justice court district or the municipality where the traffic infraction occurred. If a notice of infraction is filed in a court which is not the proper venue, the notice shall be dismissed without prejudice on motion of either party.

RULE 2.4 RESPONSE TO NOTICE

(a) Generally. A person who has been served with a notice of traffic infraction must respond to the notice within 7 14 days of the date the notice is personally served or, if the notice is served by mail, within 10 days of the date the notice is mailed.

(b) Three Alternatives. A person may respond to a notice of traffic infraction by:

(1) Paying the amount of the monetary penalty in accordance with RCW 46.63.070(2), in which case the court shall enter a judgment that the defendant has committed the traffic infraction;

(2) Contesting the determination that a traffic infraction occurred by requesting a hearing in accordance with RCW 46.63.070(3); or

(3) Requesting a hearing to explain mitigating circumstances surrounding the commission of the offense in accordance with RCW 46.63.070(4).

(c) Method of Response. A person may respond to a notice of traffic infraction either personally or by mail. If the response is mailed, it must be mailed not later than midnight of the day the response is due.

RULE 2.6
SCHEDULING OF HEARINGS

(a) Contested Hearings.

(1) Upon receipt of a response submitted pursuant to rule 2.4 (b)(2), the court shall schedule a hearing to determine whether the defendant committed the infraction. The hearing shall be scheduled for not less than 7 14 days nor more than 90 days from the date of written notice of the hearing date, unless otherwise agreed by the defendant in writing.

(2) The court shall send the defendant written notice of the time, place, and date of the hearing within 14 days of the receipt of the request for a hearing. The notice of the hearing shall also include statements advising the defendant of his rights at the hearing, how the defendant may request that witnesses be subpoenaed, and that failure to appear is a crime for which the defendant may be arrested.

(3) The court may schedule the hearing on a contested traffic infraction for the same time as the hearing on another traffic infraction alleged to have been committed by the defendant. The court may schedule the hearing on a contested traffic infraction for the same time as the trial on a misdemeanor arising out of the same occurrence as the traffic infraction.

(b) Mitigation Hearings.

(1) Upon receipt of a response submitted pursuant to rule 2.4 (b)(3) the court shall schedule a hearing to determine whether there were mitigating circumstances surrounding the commission of the infraction. The hearing shall be scheduled for not less than 7 14 days nor more than 90 days from the date of written notice of the hearing date, unless otherwise agreed by the defendant in writing.

(2) The court shall send the defendant written notice of the time, place, and date of the hearing within 14 days of the request for a hearing. The notice shall also include statements advising the defendant of his rights at the hearing and stating that failure to appear is a crime for which the defendant may be arrested.

(3) The court may schedule the mitigation hearing for the same time as the mitigation hearing on another traffic infraction alleged to have been committed by the defendant.

JTIR 4.2
TITLE 4
DISPOSITION PROCEDURES
RULE 4.1

NOTIFICATION TO DEPARTMENT OF LICENSING

(a) Generally. Within ~~10~~ 30 days of entry of judgment that the infraction was committed the court shall forward to the Department of Licensing a copy of the notice of traffic infraction and an abstract of the court's order. Courts may forward case disposition information to the Department of Licensing via electronic means according to procedures established by the Department and the Administrator for the Courts.

(b) Parking, Standing, Stopping, or Pedestrian Infractions. The court shall not notify the Department of a parking, standing, stopping, or pedestrian infraction.

(c) Notice to Department When Failure to Appear Set Aside. If a judgment for a failure to appear has been

set aside, the Department shall be notified that it has been set aside and of the final disposition of the infraction within ~~10~~ 30 days after judgment has been rendered.

RULE 6.2
MONETARY PENALTY SCHEDULE

(a) Effect of Schedule. The penalty for any infraction listed in this rule may not be changed by local court rule. The court may impose on a defendant a lesser penalty in an individual case. Provided that, whenever the base penalty plus statutory assessments results in a total payment that is not an even dollar amount, the base penalty is deemed to be amended to a lesser amount which produces the next lowest even dollar total.

(b) Unscheduled Infractions. The penalty for any infraction not listed in this rule shall be \$25, not including statutory assessments. A court may, by local court rule, provide for a different penalty.

(c) Infractions Not Covered. This schedule does not apply to penalties for parking, standing, stopping, or pedestrian infractions established by municipal or county statute. Penalties for those infractions are established by statute or local court rule, but shall be consistent with the philosophy of these rules.

(d) Penalty Schedule. The following infractions shall have the penalty listed, not including statutory assessments.

Serious Infractions	Penalty
1. Wrong way on freeway (RCW 46.61.150)	\$165
2. Wrong way on freeway access (RCW 46.61.155)	\$70
3. Backing on limited access highway (RCW 46.61.605)	\$70
4. Spilling or failure to secure load (RCW 46.61.655)	\$70
5. Throwing or depositing debris on highway (RCW 46.61.645)	\$70
6. Disobeying school patrol (RCW 46.61.385)	\$70
7. Passing stopped school bus (with red lights flashing) (RCW 46.61.370)	\$70
8. Violation of posted road restriction (RCW 46.44.080; RCW 46.44.105(4))	\$165
9. Switching license plates, loan of license or use of another's (RCW 46.16.240)	\$70
10. Altering or using altered license plates (RCW 46.16.240)	\$70
Operator's Licenses (RCW 46.20)	
All RCW 46.20 infractions	\$25
Vehicle Licenses (RCW 46.16)	
Expired Vehicle License (RCW 46.16.010)	
Two months or less	\$25
Over 2 months	\$70
Failure to obtain Washington vehicle license within	
2 months after residency established	\$25
Failure to obtain Washington vehicle license over	
2 months after residency established	\$165
Speeding (RCW 46.61.400) if speed limit is over 40 m.p.h.	
1-5 m.p.h. over limit	\$10
6-10 m.p.h. over limit	\$20
11-15 m.p.h. over limit	\$35
16-20 m.p.h. over limit	\$50
21-25 m.p.h. over limit	\$65
26-30 m.p.h. over limit	\$85
31-35 m.p.h. over limit	\$110
36-40 m.p.h. over limit	\$135
Over 40 m.p.h. over limit	\$165

Speeding if speed limit is 40 m.p.h. or less

- 1-5 m.p.h. over limit \$20
- 6-10 m.p.h. over limit \$25
- 11-15 m.p.h. over limit \$40
- 16-20 m.p.h. over limit \$60
- 21-25 m.p.h. over limit \$85
- 26-30 m.p.h. over limit \$110
- 31-35 m.p.h. over limit \$135
- Over 35 m.p.h. over limit \$165

Speed Too Fast for Conditions (RCW 46.61.400(1)) \$25

Rules of the Road

- 1. Failure to stop (RCW 46.61.050, .210) \$25
- 2. Failure to yield the right of way (RCW 46.61.180, .190, .205, .210, .235, .300, .365) \$25
- 3. Following too close (RCW 46.61.145, .635) \$25
- 4. Failure to signal (RCW 46.61.310) \$25
- 5. Improper lane usage or travel (RCW 46.61.140) \$25
- 6. Impeding traffic (RCW 46.61.425) \$25
- 7. Improper passing (RCW 46.61.110, .115, .120, .125, .130) \$25
- 8. Prohibited and improper turn (RCW 46.61.290, .295, .305) \$25
- 9. Crossing double yellow line left of center line (RCW 46.61.100, .130, .140) \$25
- 10. Operating with obstructed vision (RCW 46.61.615) \$25
- 11. Wrong way on one-way street (RCW 46.61.135) \$25
- 12. Failure to comply with restrictive signs (RCW 46.61.050) \$25

Accident

If an accident occurs in conjunction with any of the listed rules-of-the-road infractions or speed too fast for conditions, the penalty for the infraction shall be: \$50

Equipment (RCW 46.37)

- 1. Illegal use of emergency equipment (RCW 46.37.190) \$70
- 2. Defective or modified exhaust systems, mufflers, prevention of noise and smoke (RCW 46.37.390(1) and (3)) \$30
- First offense (the penalty may be waived upon proof to the court of compliance)
- Second offense within 1 year of first offense \$50
- Third and subsequent offenses within 1 year of first offense \$70
- 3. Any other equipment infraction (RCW 46.37.010) \$25

Motorcycles

- Any infraction relating specifically to motorcycles (including no valid endorsement, RCW 46.20.500) \$25

Parking

- 1. Illegal parking on roadway (RCW 46.61.560) \$20
- 2. Any other parking infraction (not defined by city or county ordinance) \$10

Pedestrians

- Any infraction regarding pedestrians (not defined by city or county ordinance) \$10

Bicycles

- Any infraction regarding bicycles \$15

Load Violations (all under RCW 46.44, except over license capacity) (see RCW 46.16)

- 1. Over legal—tires, wheelbase (RCW 46.44.105(1))
 - (First offense) \$55
 - (Second offense) \$85
 - (Third offense) \$100
 In addition to the above (RCW 46.44.105(2)) 3¢ per excess pound
- 2. Over license capacity (RCW 46.16.145)
 - (First offense) \$55
 - (Second offense) \$85
 - (Third offense) \$100
- 3. Violation of special permit \$50
- 4. Failure to obtain special permit \$50

- 5. Failure to submit to being weighed \$50
- 6. Illegal vehicle combination (RCW 46.44.036) \$50
- 7. Illegally transporting mobile home \$55
- Any other infraction defined in RCW 46.44 \$35

Private Carrier (RCW 46.73)

- 1. Failure to display valid medical exam \$52
- 2. Violation of daily log book
 - Driver not out of service \$52
 - Driver out of service \$78

Off-Road Vehicles (ATV's) (RCW 46.09)

- Any RCW 46.09 infraction \$30

Snowmobiles (RCW 46.10)

- Any RCW 46.10 infraction \$30

Failure to respond to notice of infraction or failure to pay penalty (RCW 46.63.110(3)) \$25

SPEED MEASURING DEVICE: DESIGN AND CONSTRUCTION CERTIFICATION

(a) In General. This rule applies only to ~~((format))~~ contested hearings.

(b) Certificate; Form. In the absence of a request to produce an electronic speed measuring device (SMD) expert made at least 7 days prior to trial or such lesser time as the court deems proper, a certificate in substantially the following form is admissible in lieu of an expert witness in any court proceeding in which the design and construction of an electronic speed measuring device (SMD) is an issue:

CERTIFICATION CONCERNING DESIGN AND CONSTRUCTION OF ELECTRONIC SPEED MEASURING DEVICES

I, _____, do certify under penalty of perjury as follows: I am employed with _____ as a _____. I have been employed in such a capacity for _____ years and hold the rank of _____. Part of my duties include supervising the purchase, maintenance, and repair of all electronic speed measuring devices (SMD's) used by my agency.

This agency currently uses the following SMD's:

[List all SMD's used and their manufacturers.]

I have the following qualifications with respect to the above stated SMD's:

[List all degrees held and any special schooling regarding the SMD's listed above.]

Our agency maintains manuals for all of the above stated SMD's. I am personally familiar with those manuals and how each of the SMD's are designed and operated. All initial testing of the SMD's was performed under my direction. The units were evaluated to meet or exceed existing performance standards. Our agency maintains a testing and certification program. This program requires:

[State the program in detail.]

Based upon my education, training, and experience and my knowledge of the SMD's listed above, it is my opinion that each of these pieces of equipment is so designed and constructed as to accurately employ the Doppler effect in such a manner that it will give accurate measurements of the speed of motor vehicles when properly calibrated and operated by a trained operator.

[Signature]

Dated: _____

(c) Continuance. The court at the time of the formal hearing shall hear testimony concerning the infraction and, if necessary, may continue the proceedings for the purpose of obtaining evidence concerning an electronic speed measuring device and the certification thereof. If, at the time it is supplied, the evidence is insufficient, a motion to suppress the readings of such device shall be granted.

Reviser's note: The typographical error in the above material appeared in the original copy of the Supreme Court and appears herein pursuant to the requirements of RCW 34.08.040.

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

WSR 89-14-001
PROPOSED RULES
BOARD OF PILOTAGE COMMISSIONERS
 [Filed June 22, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Pilotage Commissioners intends to adopt, amend, or repeal rules concerning licensing of pilots, WAC 296-116-080;

that the agency will at 9:00 a.m., Thursday, August 10, 1989, in the Conference Room, Pier 52, Seattle, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 88.16.035.

The specific statute these rules are intended to implement is RCW 88.16.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 31, 1989.

Dated: June 22, 1989
 By: Marjorie T. Smitch
 Assistant Attorney General

STATEMENT OF PURPOSE

Rule: WAC 296-116-080.

Statutory Authority: RCW 88.16.035.

Reason for Amendments: In the event of a shortage of five-year pilots, the board will have the discretion to waive the five-year pilot requirement.

Implementation: This rule will be implemented by the Washington State Board of Pilotage Commissioners, Colman Dock, Seattle, Washington 98104, (206) 464-7818.

Proposed: The Board of Pilotage Commissioners.

Agency Comments: None.

Federal Law/Court Decision: None.

Small Business Economic Impact Statement: None required.

AMENDATORY SECTION (Amending Order 88-9, Resolution No. 88-9, filed 5/3/88)

WAC 296-116-080 LICENSING OF PILOTS. (1) No person shall be licensed by the board unless he has applied for a pilotage license and successfully completed: (a) The pilotage examination; (b) familiarization trips required by the board; and (c) the pilotage training program, if applicable.

The majority of the entire board shall pass on the licensing of a pilot and licenses shall be signed by the chairperson. All applicants shall have and display a United States Government Masters License and a first class United States endorsement without restrictions on that license to pilot in whichever pilotage district the applicant desires a license. In addition all applicants shall have and display an endorsement to their masters license issued by the United States Coast Guard certifying competence as a radar observer.

(2) Prior to commencing familiarization trips, and the pilot training program, if applicable, an applicant must pass a written and oral examination given and graded by the board. The board will conduct such examinations for both pilotage districts during the month of April in each odd-numbered year. Notice of the examination shall be published four months in advance by one paid advertisement in a major newspaper and written notice to one radio station, one television station, United Press International, and the Associated Press, as well as all pilots licensed by the board and all operators registered with the board. Applications will be accepted by the board immediately following the

publication of the notice of the examination. The board may, in an emergency, call for an immediate examination on less than four months notice.

(a) The examination may be taken by all qualified applicants who:
 (i) Have had a license application on file with the board for at least one month prior to the examination. (This requirement may be waived upon the showing of good cause;)

(ii) Have tendered a nonrefundable examination fee of three hundred dollars. The board may, at its discretion, refund the examination fee for an applicant who is unable to sit for the examination.

(iii) Have had a physical examination by a physician designated by the board not more than thirty days prior to the examination to determine his physical fitness to be a pilot.

(b) The examination shall be in compliance with RCW 88.16.090 and shall consist of questions covering, but not limited to, the following subjects as they pertain to the pilotage district for which the examination is being given:

(i) Rules of the road as set forth in United States government publications;

(ii) Aids to navigation;

(iii) Courses, distances, and distance past abeam at change-of-course points, course points within channels, waterways, and navigable tributaries within the pilotage district for which the examination is being given;

(iv) Cable crossing areas;

(v) Channel and passage widths, depths and shoal areas;

(vi) Bridge signals - width, regulations, and closed periods;

(vii) Ship handling, docking and undocking problems, use of towboats and anchors, and seamanship;

(viii) Vessel traffic system regulations where applicable;

(ix) Ranges for determining compass error and measured miles;

(x) Channel ranges;

(xi) Engine and rudder order commands for United States and foreign merchant vessels and United States naval vessels;

(xii) Operation and use of marine radar, including rapid plotting techniques;

(xiii) Knowledge of tidal currents and ability to calculate currents and tides;

(xiv) Pier, wharf, or terminal locations and berth numbers; dock or pier headings, lengths, and minimum depths of water alongside;

(xv) Prohibited areas, restricted areas, and explosive anchorages;

(xvi) Use of navigational and bridge instruments;

(xvii) Anchorage locations;

(xviii) Duties of pilot;

(xix) Relationship between pilot and master;

(xx) Location and meaning of storm warning signals;

(xxi) Meaning of one and two flag signals;

(xxii) United States government public health quarantine regulations;

(xxiii) Harbor regulations;

(xxiv) Washington State Pilotage Act and rules of the board of pilotage commissioners;

(xxv) Chart knowledge, including chart symbols and abbreviations as set forth in the latest department of commerce NOS (National Ocean Survey) Chart No. 1.

(3) After successful completion of the examination, the board shall determine the number of familiarization trips which the applicant will have to make pursuant to RCW 88.16.090. Familiarization trips are ship movements over specified routes on which the applicant observes the route and the actions of the licensed pilot on board.

(4) After passing the examination, applicants for the Puget Sound pilotage district must enter and successfully complete a familiarization and training program. In this program applicants shall be required to pilot vessels under the supervision of Puget Sound pilots with more than five years experience. Upon written request by an applicant to the board, the five years' experience requirement for the supervisory pilot may be waived in certain instances. After every such assignment the supervisory pilots shall fill out, on a form provided by the board, an evaluation of the applicant's performance. After completion of the training period, the board shall evaluate the applicant's performance in shiphandling skills on the basis of these forms and other relevant information and decide whether the applicant should be licensed. Depending on the applicant's experience level and grade of license, applicants in this training program shall pilot under such supervision for a minimum period of four months and seventy-five assignments and a maximum period of six months and one hundred assignments. Some or all of the familiarization trips required by RCW 88.16.090(7) may, at

the board's discretion, be combined with trips during which the applicant is piloting the vessel under the supervision of a licensed pilot.

WSR 89-14-002
PROPOSED RULES
BOARD OF PILOTAGE COMMISSIONERS

[Filed June 22, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Pilotage Commissioners intends to adopt, amend, or repeal rules concerning limitations on new pilots, WAC 296-116-082;

that the agency will at 9:00 a.m., Thursday, August 10, 1989, in the Conference Room, Pier 52, Seattle, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 88.16.035.

The specific statute these rules are intended to implement is RCW 88.16.105.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 31, 1989.

Dated: June 22, 1989

By: Marjorie T. Smitch
Assistant Attorney General

STATEMENT OF PURPOSE

Rule: WAC 296-116-082.

Statutory Authority: RCW 88.16.105.

Reason for Amendment: This proposed regulation was necessitated by the 1987 legislative amendment to RCW 88.16.105 which increased the limitation period for new pilots from two to three years.

Implementation: This rule will be implemented by the Washington State Board of Pilotage Commissioners, Colman Dock, Seattle, Washington 98104, (206) 464-7818.

Proposed: The Board of Pilotage Commissioners.

Agency Comments: None.

Federal Law/Court Decision: None.

Small Business Economic Impact Statement: None required.

AMENDATORY SECTION (Amending Order 89-5, Resolution No. 89-5, filed 5/18/89)

WAC 296-116-082 LIMITATIONS ON NEW PILOTS. The initial license issued by the board to a new pilot shall not authorize such pilot to perform pilotage services on any vessel of a size of 25,000 gross tons (International) or more, or of over 660 feet in length for the first year that such licensee becomes an active pilot. During this first year the licensee will not be authorized to pilot loaded petroleum tankers. During the second year of piloting under an initial license the pilot may perform pilotage on vessels in excess of 25,000 gross tons (International) and up to 35,000 gross tons (International) if such pilotage does not include the docking or undocking of the vessel. During the third year of piloting under an initial license the pilot may perform pilotage on vessels not over 35,000 gross tons (International), however, the pilot may perform pilotage on vessels in excess of 35,000 gross tons

(International) if such pilotage does not include the docking or undocking of the vessel. The initial license shall contain the above limitations and the date of the commencement and expiration of such periods of limitation. The board ((may)) shall also prescribe required familiarization trips before a newly licensed pilot may pilot a larger or different type of vessel. Prior to the pilot's third anniversary, the licensee shall provide the board with a certificate or other written proof that the pilot has completed a course of continuing education at an accepted simulator school or other recognized ship handling institution. This shall be done before all restrictions are lifted from the pilot's license.

WSR 89-14-003
ADOPTED RULES
BOARD OF HEALTH
[Order 329—Filed June 22, 1989]

Be it resolved by the Washington State Board of Health, acting at Spokane County Health District, 1101 College Avenue, Spokane, WA, that it does adopt the annexed rules relating to HIV testing—Ordering—Reporting, WAC 248-100-207.

This action is taken pursuant to Notice No. WSR 89-10-021 filed with the code reviser on April 26, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 70.24 RCW and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 14, 1989.

By John A. Beare, M.D., M.P.H.
Secretary

AMENDATORY SECTION (Amending Order 318, filed 8/17/88)

WAC 248-100-207 HUMAN IMMUNODEFICIENCY VIRUS (HIV) TESTING—ORDERING—LABORATORY SCREENING—INTERPRETATION—REPORTING. (1) Any person ordering or prescribing an HIV test for another, except for seroprevalent studies under chapter 70.24 RCW or ((as)) provided ((im)) under subsections (2) and (3) of this section, shall:

(a) Provide or refer for pretest counseling ((as)) described ((im)) under WAC 248-100-209; and

(b) Obtain or ensure informed specific consent of the individual to be tested separate from other consents prior to ordering or prescribing an HIV test, unless accepted under provisions in chapter 70.24 RCW; and

(c) Provide or refer for post-test counseling ((as)) described ((im)) under WAC 248-100-209 if HIV test is positive for or suggestive of HIV infection.

(2) Blood banks, tissue banks, and others collecting or processing blood, sperm, tissues, or organs for transfusion/transplanting shall:

(a) Obtain or ensure informed specific consent of the individual prior to ordering or prescribing an HIV test, unless excepted under provisions in chapter 70.24 RCW;

(b) Explain the reason for HIV testing is to prevent contamination of the blood supply or tissue or organ bank donations; and

(c) At the time of notification regarding a positive HIV test, provide or ensure at least one individual counseling session.

(3) Persons subject to regulation under Title 48 RCW and requesting an insured, a subscriber, or a potential insured or subscriber, to furnish the results of an HIV test for underwriting purposes, as a condition for obtaining or renewing coverage under an insurance contract, health care service contract, or health maintenance organization agreement shall:

(a) Before drawing blood to perform an HIV test, provide written information to the individual tested explaining:

(i) What an HIV test is;

(ii) Behaviors placing a person at risk for HIV infection;

(iii) The purpose of HIV testing in this setting is to determine eligibility for coverage;

(iv) The potential risks of HIV testing; and

(v) Where to obtain HIV pretest counseling.

(b) Obtain informed specific written consent for an HIV test. The written informed consent shall include:

(i) An explanation of confidential treatment of test result reports limited to persons involved in handling or determining applications for coverage or claims for the applicant or claimant; and

(ii) Requirements under subsection (3)(c) of this section.

(c) Establish procedures to inform and ensure an applicant of the following:

(i) Post-test counseling, specified under WAC 248-100-209(4), is required if an HIV test is positive;

(ii) Post-test counseling is done at the time any positive HIV test result is given to the tested individual;

(iii) The applicant is required to designate a health care provider or health care agency to whom positive or indeterminate HIV test results are to be provided for interpretation and post-test counseling; and

(iv) When an individual does not identify a designated health care provider or health care agency, the insurance contractor, health service contractor, or health maintenance organization shall ensure that post-test counseling is offered to the individual.

(4) Laboratories and other places where HIV testing is performed shall demonstrate complete and satisfactory participation in an HIV proficiency testing program approved by the Department Laboratory Quality Assurance Section, Mailstop B17-9, Seattle, Washington 98104.

~~((4))~~ (5) The department laboratory quality assurance section shall accept substitutions for EIA screening only as approved by the United States Food and Drug Administration (FDA) and a published list or other written FDA communication.

~~((5))~~ (6) Medical laboratories testing for the presence of HIV shall:

(a) Send an HIV test prevalence results report by telephone or in writing to the department office on AIDS (MS B17-9, Seattle, Washington 98104), quarterly or more often; and

(b) Include in the report:

(i) Number of samples tested;

(ii) Number of samples repeatedly reactive by enzyme immuno assay (EIA);

(iii) Number of samples tested by western blot assay (WBA) or other confirmatory test as approved by department office on AIDS;

(iv) Number of positive test results by WBA or other confirmatory test as approved by department office on AIDS;

(v) Number of specimens tested by viral culture; and

(vi) Number of positive test results from viral cultures.

~~((6))~~ (7) Persons informing a tested individual of positive laboratory test results indicating HIV infection shall do so only when:

(a) HIV is isolated by viral culture technique; or

(b) HIV antibodies are identified by a sequence of tests which are reactive and include:

(i) A repeatedly reactive screening test such as the enzyme immunoassay (EIA); and

(ii) An additional, more specific, assay such as a positive western blot assay (WBA) or other tests as defined and described in the AIDS office manual, April, 1988, DSHS, Mailstop LP-20, Olympia, Washington 98504.

(c) Such information consists of relevant, pertinent facts communicated in such a way that it will be readily understood by the recipient.

WSR 89-14-004

PROCLAMATION

OFFICE OF THE GOVERNOR

[No. 89-05]

The appropriate classification and assignment of inmates to facilities and bedspace are critical to the management of the Department of Corrections. The Department of Corrections has reduced the number of available beds at the Washington State Reformatory. This will result in a reduction in the total number of medium-custody beds within the system. The capacities of remaining Division of Prisons facilities in Monroe are limited by statute and/or their special use, and the Washington State Penitentiary's population level is under the jurisdiction of the federal courts under the Hoptowit Court Order. The department's ability to appropriately classify, separate and assign medium custody inmates throughout the system requires additional bedspace at the Washington Corrections Center facility.

NOW, THEREFORE, I Booth Gardner, Governor of the State of Washington, do hereby declare, pursuant to Substitute House Bill No. 1271, Section 14, that an emergency exists with respect to the number of inmates currently in the custody of the Department of Corrections and further that the Department of Corrections is authorized to increase the population limitations at the

Washington Corrections Center/Training Center and to have up to 780 prisoners at that facility for a period not to exceed one (1) year from the date the department exceeds that present authorized capacity of the facility, unless this proclamation shall have been rescinded.

IN WITNESS WHERE-OF, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia this 20th day of June, A.D., nineteen hundred and eighty-nine.

Booth Gardner

Governor of Washington

BY THE GOVERNOR:

Ralph Munro

Secretary of State

WSR 89-14-005

ADOPTED RULES

TRANSPORTATION IMPROVEMENT BOARD

[Order 89-2, Resolution No. 035—Filed June 22, 1989]

Be it resolved by the Transportation Improvement Board, acting at the Seattle City Council Chambers, that it does adopt the annexed rules relating to:

- New ch. 479-112 WAC Submission of proposed TIA projects to Transportation Improvement Board.
New ch. 479-113 WAC Submission of six-year plans for transportation improvement account projects.
New ch. 479-116 WAC Requirements for transportation improvement account project development.
New ch. 479-120 WAC Financial and payment requirements for transportation improvement account funded projects.

This action is taken pursuant to Notice No. WSR 89-10-053 filed with the code reviser on May 2, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 47.26 RCW and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 16, 1989.

By Jerry M. Fay
Executive Director

Chapter 479-112 WAC
SUBMISSION OF PROPOSED TIA PROJECTS TO
TRANSPORTATION IMPROVEMENT BOARD

WAC

- 479-112-005 Agencies eligible for transportation improvement account funds.
479-112-007 Designation of lead agency for transportation improvement account projects.
479-112-008 Verification of coordination with planning authority.
479-112-009 Planning requirements for multi-agency transportation improvement account projects.
479-112-010 Application for transportation improvement account projects.
479-112-017 Local/private matching funds on transportation improvement account projects.
479-112-018 Certification of local/private matching funds for transportation improvement account projects.
479-112-020 Time and place for submission of proposed TIA projects.

NEW SECTION

WAC 479-112-005 AGENCIES ELIGIBLE FOR TRANSPORTATION IMPROVEMENT ACCOUNT FUNDS. In accordance with RCW 47.26.084, TIA funds will be distributed to two funding programs. The funding programs will be entitled the "urban program" and the "small cities program." The term "urban area" as used in this chapter refers to that portion of a county within the federal urban area boundary as designated by FHWA.

- (1) The urban program shall include:
(a) Urban areas of counties;
(b) Cities with population over five thousand; and
(c) Urban area transportation benefit districts.

(2) The small cities program shall include transportation improvements in cities with a population of five thousand or less.

(3) Transportation improvements involving state highways and transit will be eligible for funding from the account when they are part of a joint project in either the urban or small cities program.

NEW SECTION

WAC 479-112-007 DESIGNATION OF LEAD AGENCY FOR TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. The agencies involved in a multi-agency TIA funded project shall designate one agency as the lead agency. The lead agency must be a city, county, or transportation benefit district.

NEW SECTION

WAC 479-112-008 VERIFICATION OF COORDINATION WITH PLANNING AUTHORITY. All applications for TIA funding shall be consistent with the regional transportation plan. In areas of the state where there is no regional transportation planning authority, a letter of verification shall be signed by the chair of the lead agency legislative authority.

NEW SECTION

WAC 479-112-009 PLANNING REQUIREMENTS FOR MULTI-AGENCY TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. The board requires joint planning for all TIA funded multi-agency projects. The lead agency shall submit documentation to the board stating that the approving authority of each agency involved in the project has indicated support for the project. In the case of projects that stop at or near a corporate boundary or could affect other transportation agencies facilities or programs, a copy of a letter requesting review by other affected agencies shall accompany the project preapplication.

NEW SECTION

WAC 479-112-010 APPLICATION FOR TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. When requested by the board, applications for proposed projects shall be submitted to the board by cities, counties, and transportation benefit districts seeking allocation of funds from the TIA. The application form will be provided by the board.

NEW SECTION

WAC 479-112-017 LOCAL/PRIVATE MATCHING FUNDS ON TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. (1) TIA moneys for urban program projects authorized by the board shall be matched by an amount not less than twenty percent of the total cost of the transportation project. Matching funds will be considered to be all contributions other than those provided by the board.

(2) TIA moneys for the small cities program projects authorized by the board shall be matched by not less than ten percent of the total cost of the transportation project. Matching funds will be considered to be all contributions other than those provided by the board.

NEW SECTION

WAC 479-112-018 CERTIFICATION OF LOCAL/PRIVATE MATCHING FUNDS FOR TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. Within one year after board approval of an application for funding and before any TIA funds are committed to the project, each agency with an interest in the TIA project shall provide written certification to the board of the pledged percentage of local and/or private funding. Funds allocated to an applicant that does not certify funding within one year after approval may be reallocated by the board.

NEW SECTION

WAC 479-112-020 TIME AND PLACE FOR SUBMISSION OF PROPOSED TIA PROJECTS. All project prospectuses submitted by cities, counties; or transportation benefit districts for funding from the TIA will be submitted in accordance with the requirements of WAC 479-12-020.

**Chapter 479-113 WAC
SUBMISSION OF SIX-YEAR PLANS FOR
TRANSPORTATION IMPROVEMENT ACCOUNT
PROJECTS**

WAC

- 479-113-010 Six-year programs for transportation improvement account projects.
- 479-113-011 Priority criteria for transportation improvement account projects.
- 479-113-029 Establishing regions for transportation improvement account program.
- 479-113-031 Allocation of transportation improvement account funds to regions.
- 479-113-032 Contingency fund for the transportation improvement account urban program.
- 479-113-035 Value engineering study requirements for transportation improvement account projects.

NEW SECTION

WAC 479-113-010 SIX-YEAR PROGRAMS FOR TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. (1) The six-year transportation programs of urban area cities and counties required, respectively, by RCW 35.77.010 and 36.81.121, shall be divided into sections:

(a) The basic six-year transportation program for the following six years based upon estimated revenues other than proposals for board funds for new projects.

(b) A separate supplemental section of the six-year transportation program setting forth proposals, if any, for board funds for new projects to begin in the following biennial period.

(2) The separate supplemental section of the six-year transportation program setting forth proposed new projects utilizing board funds shall be considered as supplemental to the basic six-year transportation program and shall not contain duplicate projects: PROVIDED, That the same project may appear in both the basic and supplemental six-year transportation programs if:

(a) The local agency intends to construct the project with other funds if TIA funds are not approved.

(b) The total dollar amount of the basic six-year transportation program approximates estimated revenues available for construction for the following six-year period.

Upon board approval of any new project for financial assistance from the board, such project shall be amended into the basic six-year transportation program.

The responses to the TIA funding criteria questions and inventory data for each proposed project shall be prepared under the supervision of a registered engineer in the state of Washington.

A copy of the basic six-year transportation program and the separate supplemental section of the six-year transportation program shall be submitted to the board along with a copy of the resolution of the city or county adopting such program. The TIA project preapplication form setting forth new project proposals for the TIA

funding, shall be submitted to the board on preapplication forms provided by the board.

NEW SECTION

WAC 479-113-011 PRIORITY CRITERIA FOR TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. The lead agency shall evaluate its proposed TIA projects by utilizing the following criteria which shall also be utilized by the TIB to prioritize projects:

- (1) Multi-agency involvement in projects.
- (2) Multimodal solutions for projects including but not limited to transit, high occupancy vehicle (HOV) lanes, ferry or high capacity transit/rail.
- (3) Improvements necessitated by existing or foreseeable congestion or safety problems due to economic development or growth.
- (4) The percentage of agency(ies) and private matching funds.
- (5) For the small cities program projects, structural or geometric deficiencies.
- (6) Other factors deemed appropriate by the board on a case-by-case basis.

NEW SECTION

WAC 479-113-029 ESTABLISHING REGIONS FOR TRANSPORTATION IMPROVEMENT ACCOUNT PROGRAM. For the purpose of apportioning TIA funds to the urban and small cities programs, the counties of the state are grouped within three regions of the state as follows:

- (1) East region shall include eligible agencies within the counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima.
- (2) Puget Sound region shall include eligible agencies within the counties of King, Pierce, and Snohomish.
- (3) West region shall include eligible agencies within the counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, Kitsap, Lewis, Mason, Pacific, San Juan, Skagit, Skamania, Thurston, Wahkiakum, and Whatcom.

NEW SECTION

WAC 479-113-031 ALLOCATION OF TRANSPORTATION IMPROVEMENT ACCOUNT FUNDS TO REGIONS. (1) Of the funds in the urban program, at least fifteen percent will be allocated to projects in the East region, at least fifteen percent to projects in the West region, and at least thirty percent to projects in the Puget Sound region. An amount not to exceed ten percent of the urban funds will be placed in a contingency fund as provided for in WAC 479-113-032.

(2) Of the funds in the small cities program, the amount allocated to projects in a region will be within plus or minus five percent of the ratio which the population of cities under five thousand in a region bears to the state-wide population for cities under five thousand as last determined by the office of financial management.

NEW SECTION

WAC 479-113-032 CONTINGENCY FUND FOR THE TRANSPORTATION IMPROVEMENT ACCOUNT URBAN PROGRAM. At the beginning of each fiscal year, the board will place not more than ten percent of the urban program funds in a contingency fund. The contingency funds will be for use on projects that were unanticipated and can meet all program requirements. If no such projects appear forthcoming, the board will periodically reduce the size of the contingency fund during the fiscal year by allocating those funds to projects. The contingency funded projects may be submitted to the board for review anytime outside the normal funding process.

NEW SECTION

WAC 479-113-035 VALUE ENGINEERING STUDY REQUIREMENTS FOR TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. Value engineering studies will be required on TIA projects in accordance with the requirements of WAC 479-13-035.

Chapter 479-116 WAC
REQUIREMENTS FOR TRANSPORTATION IMPROVEMENT ACCOUNT PROJECT DEVELOPMENT

WAC

- 479-116-015 Registered engineer in charge for transportation improvement account projects.
- 479-116-016 Certification of completion of work for transportation improvement account projects.
- 479-116-020 Standard specifications for transportation improvement account projects.
- 479-116-030 Utility and railroad adjustments and relocations for transportation improvement account projects.
- 479-116-035 Underground utilities on transportation improvement account projects.
- 479-116-040 Traffic control devices on transportation improvement account projects.
- 479-116-045 Project plantings on transportation improvement account projects.
- 479-116-050 Acquisition of right of way for transportation improvement account projects.
- 479-116-060 Design standards for transportation improvement account projects.

NEW SECTION

WAC 479-116-015 REGISTERED ENGINEER IN CHARGE FOR TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. All projects using TIA funds shall be planned, designed, and constructed under the supervision of a professional engineer registered in the state of Washington.

NEW SECTION

WAC 479-116-016 CERTIFICATION OF COMPLETION OF WORK FOR TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. Each voucher for payment shall be submitted in accordance with WAC 479-16-016.

NEW SECTION

WAC 479-116-020 STANDARD SPECIFICATIONS FOR TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. All TIA funded projects shall be constructed in accordance with WAC 479-16-020.

NEW SECTION

WAC 479-116-030 UTILITY AND RAILROAD ADJUSTMENTS AND RELOCATIONS FOR TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. Utility and railroad adjustments and relocations on TIA funded projects shall be constructed in accordance with WAC 479-16-030.

NEW SECTION

WAC 479-116-035 UNDERGROUNDING UTILITIES ON TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. TIA funds shall participate in undergrounding utilities under conditions as provided for in WAC 479-16-035.

NEW SECTION

WAC 479-116-040 TRAFFIC CONTROL DEVICES ON TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. Traffic control devices included in TIA funded projects shall be installed in conformance with WAC 479-16-040.

NEW SECTION

WAC 479-116-045 PROJECT PLANTINGS ON TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. TIA funds may participate in the cost of project plantings in accordance with WAC 479-16-045.

NEW SECTION

WAC 479-116-050 ACQUISITION OF RIGHT OF WAY FOR TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. Right of way for TIA funded projects shall be acquired in accordance with chapter 468-100 WAC.

NEW SECTION

WAC 479-116-060 DESIGN STANDARDS FOR TRANSPORTATION IMPROVEMENT ACCOUNT PROJECTS. All TIA funded projects shall be prepared using currently applicable design standards.

Chapter 479-120 WAC
FINANCIAL AND PAYMENT REQUIREMENTS
FOR TRANSPORTATION IMPROVEMENT AC-
COUNT FUNDED PROJECTS

WAC

- 479-120-020 Partial or progress payments for transportation improvement account project costs.
- 479-120-033 Procedure for requesting an increase in authorized amount of transportation improvement account funds.

NEW SECTION

WAC 479-120-020 PARTIAL OR PROGRESS PAYMENTS FOR TRANSPORTATION IMPROVEMENT ACCOUNT PROJECT COSTS. Participation and payment of TIA funds shall be governed by the requirements of WAC 479-20-020.

NEW SECTION

WAC 479-120-033 PROCEDURE FOR REQUESTING AN INCREASE IN AUTHORIZED AMOUNT OF TRANSPORTATION IMPROVEMENT ACCOUNT FUNDS. An increase in the amount of TIA funds in a project may be requested in accordance with the provisions of WAC 479-20-033 and 479-20-037.

WSR 89-14-006**PROPOSED RULES****DEPARTMENT OF LABOR AND INDUSTRIES**

[Filed June 22, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning:

- Amd WAC 296-104-050 Administration—Examination for inspector.
- Amd WAC 296-104-260 Inspection of systems—Clearance at top of boilers.
- Rep WAC 296-104-315 New installations—Blow off tanks.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 30, 1989.

The authority under which these rules are proposed is chapter 70.79 RCW.

This notice is connected to and continues the matter in Notice Nos. WSR 89-08-075 and 89-13-034 filed with the code reviser's office on April 5, 1989, and June 15, 1989.

Dated: June 22, 1989

By: Joseph A. Dear
Director**WSR 89-14-007****ADOPTED RULES****COUNCIL ON HEARING AIDS**

[Order PM 848—Filed June 22, 1989]

Be it resolved by the Council on Hearing Aids, acting at the Testing Center, 1300 Quince Street S.E., Olympia, WA 98504, that it does adopt the annexed

rules relating to examination review and appeal procedures, amending WAC 308-50-035.

This action is taken pursuant to Notice No. WSR 89-09-026 filed with the code reviser on April 13, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Council on Hearing Aids as authorized in RCW 18.35.161.

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.

APPROVED AND ADOPTED May 31, 1989.

By Roger Stimbert
Chair

AMENDATORY SECTION (Amending Order PM 818, filed 1/23/89)

WAC 308-50-035 EXAMINATION REVIEW AND APPEAL PROCEDURES. (1) Each applicant who is administered the examination for licensure and does not pass ((both)) any part((s)) of the examination will be provided information indicating the area of the examination in which the applicant was deficient with the notice of the examination results.

(2) Any applicant who does not pass a part of the examination may request an informal review by the council of his or her examination results. This request must be in writing and must be received by the department within thirty days of the postmark of the notice of examination results.

(3) The procedure for the informal review is as follows:

(a) An applicant submitting a written request for an informal review by the deadline described in subsection (2) of this section will be contacted by the department to arrange an appointment to appear personally in the Olympia office to review the part or parts of the examination failed.

(b) The applicant will be provided a form to complete in the Olympia office in defense of examination answers and/or examination performance.

(c) The applicant will be identified only by applicant number for the purpose of this procedure. Letters of reference or requests for special consideration will not be read or considered by the council.

(d) That applicant may bring textbooks or published material for use in completing the informal review, but such material must be retained by the Olympia office until the council has completed the informal review request submitted by the applicant.

(e) The applicant will not be allowed to take any notes or materials from the office upon leaving.

(f) The information submitted to the council for its consideration in the informal review must state the specific reason or reasons why the results of the examination should be changed. The council will not modify examination results unless the applicant can prove or show conclusive evidence of error in examination content or procedure, or bias, prejudice, or discrimination in the examination process. The council will not consider a challenge to the examination unless the total revised score including the questions or sections to be reviewed could result in a passing score in the examination.

(g) The council will schedule a closed session meeting to conduct the informal review of the material submitted by the applicant.

(h) The applicant will be notified in writing of the results of the informal review.

(4) Any applicant who is not satisfied with the result of the examination review may request that a formal hearing be held before the council pursuant to the Administrative Procedure Act. Such a hearing request must be received by the department within thirty days of postmark of the notification of the result of the council's informal review of the applicant's examination results. The request must be in writing and must state the specific reasons why the results of the examination should be changed. The council will not modify examination results unless the applicant can prove or show conclusive evidence of error in examination content or procedure, or bias, prejudice, or discrimination in the examination process. The council will not consider a challenge to the examination unless the total revised score including the questions or sections to be reconsidered could result in a passing score in the examination.

(5) The hearing will not be scheduled until the applicant and the state's attorney have appeared before an administrative law judge for a prehearing conference to consider the following:

(a) The simplification of issues;

(b) The necessity of amendments to the notice of specific reasons for the examination result modification;

(c) The possibility of obtaining stipulations, admission of facts and documents;

(d) The limitation of the number of expert witnesses;

(e) A schedule for completion of all discovery; and,

(f) Such other matters as may aid in the disposition of the proceeding.

(6) The administrative law judge shall enter an order which recites the actions taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order shall control the subsequent course of the proceeding unless modified for good cause by subsequent prehearing order.

(7) Applicants will receive at least twenty days notice of the time and place of the formal hearing. The hearing will be restricted to the specific reasons the applicant has identified as the basis for a change in the examination score.

WSR 89-14-008
EMERGENCY RULES
DEPARTMENT OF LICENSING
(Professional Licensing Services)
 [Order PM 854—Filed June 22, 1989]

I, John Swannack, assistant director of Professional Licensing Services, Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the impaired physician surcharge for physician and surgeon license issuance or renewal, amending WAC 308-52-590.

I, John Swannack, 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 that immediate adoption is necessary to implement chapter 119, Laws of 1989, which increased the surcharge and which carried an emergency clause as necessary for the immediate preservation of the public peace, health or safety or support of state government.

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

This rule is promulgated pursuant to RCW 18.72.306 as amended by chapter 119, Laws of 1989 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 21, 1989.

By John Swannack
 Assistant Director

AMENDATORY SECTION (Amending Order PM 680, filed 9/22/87)

WAC 308-52-590 **PHYSICIAN AND SURGEON FEES.** The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
<i>Physician and surgeons:</i>	
Application with examination or reexamination (both components)	\$375.00
Examination or reexamination (component I)	170.00
Examination or reexamination (component II)	195.00
Applicants (without full examination)	150.00
Renewal	35.00
Late renewal penalty	15.00
Disciplinary assessment	35.00
Surcharge-impaired physician	((+5.00))
	<u>25.00</u>
Certification	25.00

Title of Fee	Fee
Duplicate license	15.00
<i>Limited license:</i>	
Limited license application	75.00
Original license	45.00
Renewal	35.00
Duplicate license	15.00
Disciplinary assessment	35.00
Surcharge-impaired physician	((+5.00))
	<u>25.00</u>
<i>Physician's assistants:</i>	
Application	25.00
Renewal	10.00
Duplicate license	15.00

WSR 89-14-009
EMERGENCY RULES
DEPARTMENT OF LICENSING
 [Order PM 855—Filed June 22, 1989]

I, John Swannack, [assistant] director of the Washington State Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to dietitians and nutritionists.

I, John Swannack, Assistant Director, Department of Licensing, 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 RCW 43.04.086 [43.24.086] requires that programs be self supporting. These rules must be placed in effect immediately in order to begin the application process which will generate revenue prior to the end of the 1989 biennium on June 30, 1989.

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

This rule is promulgated pursuant to RCW 18.138-.070 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 20, 1989.

By John Swannack
 Assistant Director

AMENDATORY SECTION (Amending Order PM 814, filed 1/11/89)

WAC 308-177-110 **DIETITIAN AND NUTRITIONIST FEES.** The following fees shall be charged by the professional licensing division of the department of licensing:

title	fee
Application	\$75.00
Renewal	65.00
Late renewal	25.00
Certification	25.00
Duplicate	15.00
Reexamination	75.00

NEW SECTION

WAC 308-177-115 DEFINITIONS. (1) "Accredited college or university" means a college or university accredited by a national or regional accrediting body recognized by the council on postsecondary education at the time the applicant completed the required education.

(2) "Continuous preprofessional experience" means a minimum of 900 hours of supervised competency-based practice in the field of dietetics accumulated over a maximum of thirty-six months. This competency-based practice should include, but not be limited to the following:

- (a) Assuring that food service operations meet the food and nutrition needs of clients and target markets.
- (b) Utilization of food, nutrition, and social services in community programs.
- (c) Providing nutrition care through systematic assessment, planning, intervention, and evaluation of groups and individuals.
- (d) Providing nutrition counseling and education to individuals and groups for health promotion, health maintenance, and rehabilitation.
- (e) Applying current research information and methods to dietetic practice.
- (f) Utilizing computer and other technology in the practice of dietetics.
- (g) Integrating food and nutrition services in the health care delivery system.
- (h) Promoting positive relationships with others who impact on dietetic service.
- (i) Coordinating nutrition care with food service systems.
- (j) Participating in the management of cost-effective nutrition care systems.
- (k) Utilizing menu as the focal point for control of the food service system.
- (l) Participating in the management of food service systems, including procurement, food production, distribution, and service.
- (m) Participating in the management of human, financial, material, physical, and operational resources.
- (n) Providing education and training to other professionals and supportive personnel.
- (o) Engaging in activities that promote improved nutrition status of the public and advance the profession of dietetics.
- (p) Recognizing the impact of political, legislative, and economic factors on dietetic practice.
- (q) Utilizing effective communication skills in the practice of dietetics.
- (r) Participating in the management of a quality assurance program.

(3) "Supervision" means the oversight and responsibility for the dietitian's or nutritionist's continued practice by a qualified supervisor. Methods of supervision may include face-to-face conversations, direct observation, or review of written notes or tapes.

(4) "Qualified supervisor" means a dietitian who is certified under this chapter or who is qualified for certification under this chapter.

(5) "Coordinated undergraduate program" means supervised dietetic practice that is part of a course of study.

AMENDATORY SECTION (Amending Order PM 814, filed 1/11/89)

WAC 308-177-120 APPLICATION REQUIREMENTS. (1) Individuals applying for certification as a certified dietitian must submit:

- (a) A completed application form with fee;
- (b) Verification of AIDS education and training as set forth in WAC 308-177-100; and

~~(c) Verification of current registration status with the commission on dietetic registration(;-and)).~~

~~((e))~~ (2) Individuals applying for certification as a certified dietitian who have not passed the required written examination or who are not registered with the commission on dietetic registration must:

- (a) Provide transcripts forwarded directly from the issuing college or university showing completion of a baccalaureate degree or higher in a major course of study in human nutrition, foods and nutrition, dietetics, or food management;

(b) Provide evidence of completion of a continuous preprofessional experience or coordinated undergraduate program in dietetics under the supervision of a qualified supervisor;

(c) Take and pass the required written examination; and

(d) Provide verification of AIDS education and training as set forth in WAC 308-177-100.

~~((2))~~ (3) Individuals applying for certification as a certified nutritionist must submit:

- (a) A completed application form with fee; and
- (b) ~~(Verification of current registration status with the commission on dietetic registration; or~~

(c) Verification of a master's or doctorate degree from a college or university accredited by a recognized regional accrediting agency;

(d) ~~Documentation of completion of the coursework outlined in WAC 308-177-130; and~~

(e)) Documentation that the applicant meets the application requirements for certified dietitians, as set forth in subsection (1) or (2) of this section; or

(c) Transcripts forwarded directly from the issuing college or university showing completion of a masters or doctorate degree in one of the following subject areas: Human nutrition, nutrition education, foods and nutrition, or public health nutrition; and

(d) Verification of AIDS education and training as set forth in WAC 308-177-100.

AMENDATORY SECTION (Amending Order PM 814, filed 1/11/89)

WAC 308-177-130 NUTRITIONIST MINIMUM CORE CURRICULUM. Training for certified nutritionist ((~~shall~~)) should include coursework at the collegiate level or equivalent in the following areas:

(1) Basic science - Which ((~~shall~~)) should include courses in one or more of the following:

- (a) Physiology.
- (b) Biochemistry.

(2) Foods - Which ((~~shall~~)) should include courses in one or more of the following:

- (a) Selection.
- (b) Composition.
- (c) Food science.
- (d) Nutritional science.

(3) Applied nutrition - Which ((~~shall~~)) should include courses in one or more of the following:

- (a) Diet therapy.
- (b) Nutrition of the life cycle.
- (c) Cultural/anthropological nutrition.
- (d) Public health nutrition.

(4) Counseling/education - Which ((~~shall~~)) should include courses in one or more of the following:

- (a) Psychological counseling.
- (b) Educational psychology.
- (c) Communication.
- (d) Psychology.
- (e) Education.

NEW SECTION

WAC 308-177-160 EXAMINATIONS. (1) A written examination will be given at least once annually to qualified applicants at a time and place determined by the director.

(2) Applications must be received sixty days in advance of the scheduled examination.

(3) Applicants who fail the examination shall submit the appropriate fee for reexamination.

NEW SECTION

WAC 308-177-180 FOREIGN DEGREE EQUIVALENCY. Applicants who obtained their education outside of the United States and its territories must have their academic degree(s) validated as substantially equivalent to the baccalaureate, master's, or doctorate degree conferred by a regionally accredited college or university recognized by the council on post-secondary education at the time the applicant completed the required degree.

NEW SECTION

WAC 308-177-190 CERTIFICATION FOR DIETITIANS—GRANDFATHERING. An individual may be certified as a certified dietitian if he or she provides evidence of meeting criteria for registration with the commission on dietetic registration on June 9, 1988, and provides documentation of completion of the AIDS education requirements as set forth in WAC 308-177-100.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-177-150 CONTINUING EDUCATION.

WSR 89-14-010**ADOPTED RULES****DEPARTMENT OF FISHERIES**

[Order 89-48—Filed June 22, 1989]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules.

This action is taken pursuant to Notice No. WSR 89-10-068 filed with the code reviser on May 3, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 15, 1989.

By Judith Merchant
for Joseph R. Blum
Director

AMENDATORY SECTION (Amending Order 83-200, filed 11/30/83, effective 1/1/84)

WAC 220-12-010 FOOD FISH—CLASSIFICATION. The following fishes are classified as food fish under RCW 75.08.080 and are subject to the provisions of this title:

Barracuda	Sphyraena argentea
Pacific barracuda	
Cyprinids	
Carp	Cyprinus carpio
Cods and Hake	
Pacific hake or whiting	Merluccius productus
Walleye pollock	Theragra chalcogrammus
Pacific Tomcod	Microgadus proximus
Pacific Cod or true cod	Gadus macrocephalus
Flounder, sole and halibut	
Butter sole or Bellingham sole	Isopsetta isolepis
C-O sole	Pleuronichtys coenosus
Dover sole	Microstomus pacificus
English sole	Parophrys vetulus
Flathead sole	Hippoglossoides elassodon
Pacific halibut	Hippoglossus stenolepis
Petrals sole	Eopsetta jordani
Rex sole	Glyptocephalus zachirus
Rock sole	Lepidopsetta bilineata
Pacific sand dab	Citharichthys sordidus
Sand sole	Psetichthys melanostictus
Slender sole	Lyopsetta exilis
Speckled sand dab	Citharichthys stigmaeus

Starry flounder	Platichthys stellatus	Sharks	Hexanchus griseus
Turbot or Arrowtooth flounder	Atheresthes stomias	Sixgill shark	Galeorhinus zyopterus
All other species of sole and flounder	(Pleuronectiformes)	Soufjin shark	Squalus acanthias
Giant wrymouth	Delolepsis gigantea	Dogfish or spiny dogfish	(Squaliformes and Hexanchiformes)
Greenling		All other species of sharks	
Lingcod	Ophiodon elongatus	Smelts	
Rock greenling	Hexagrammos supercilius	Eulachon or Columbia River smelt	Thaleichthys pacificus
Kelp greenling	Hexagrammos decagrammus	Longfin smelt	Spirinchus dilatus
All other species of greenling	(Hexagrammidae)	Surf smelt	Hypomesus pretiosus
Herring and herring-like fishes		All other species of smelt	(Osmeridae)
Northern anchovy	Engraulis mordax	Sturgeons	
Pacific sand lance or candlefish	Ammodytes hexapterus	Green sturgeon	Acipenser medirostris
Pacific herring	Clupea harengus pallasii	White sturgeon	Acipenser transmontanus
Pacific sardine or pilchard	Sardinops sagax	Surfperches	
American shad	Alosa sapidissima	Blue perch or striped seaperch	Embiotoca lateralis
Mackerels, tunas and jacks (carangids)		Kelp perch	Brachyistius frenatus
Pacific bonito	Sarda chiliensis	Redtail surfperch	Amphistichus rhodoterus
Pacific mackerel	Scomber japonicus	Shiner perch	Cymatogaster aggregata
Jack mackerel	Trachurus symmetricus	Pile perch	Rhacochilus vacca
Monterey Spanish mackerel	Scomberomorus concolor	Walleye surfperch	Hyperprosopon argenteum
Spanish mackerel	Scomberomorus maculatus	White seaperch	Phanerodon furcatus
Yellowtail	Seriola dorsalis	All other species of perch	(Embiotocidae)
Albacore	Thunnus alalunga	Wolf-eel	Anarrhichthys ocellatus
Bluefin tuna	Thunnus thynnus	Hagfishes	
Skipjack tuna	Euthynnus pelamis	Pacific hagfish	Eptatretus stouti
Yellowfin tuna	Thunnus albacares	Black hagfish	Eptatretus deani
All other species of tunas and mackerels	(Scombridae)		
Pacific pomfret	Brama japonica		
Pacific pompano	Pepilus simillimus		
Plainfin midshipman	Parichthys notatus		
Ratfish	Hydrolagus coliei		
Rattails, all species	(Coryphaenoididae)		
Skates			
Longnose skate	Raja rhina		
Big skate	Raja binoculata		
All other species of skates	(Rajidae)		
Rockfish			
Bocaccio	Sebastes paucispinis		
Black rockfish	Sebastes melanops		
Brown rockfish	Sebastes auriculatus		
Copper rockfish	Sebastes caurinus		
Greenstriped rockfish	Sebastes elongatus		
Canary rockfish	Sebastes pinniger		
Pacific Ocean perch	Sebastes alutus		
Yelloweye or rasperhead rockfish	Sebastes ruberrimus		
Rosefish or splitnose rockfish	Sebastes diploproa		
Silvergray rockfish	Sebastes brevispinis		
Quillback rockfish	Sebastes maliger		
Yellowtail rockfish	Sebastes flavidus		
All other species of rockfish	(Scorpaenidae)		
Sablefish	Anoplopoma fimbria		
Salmon			
Chinook or King salmon	Oncorhynchus tshawytscha		
Chum or dog salmon	Oncorhynchus keta		
Pink or humpback	Oncorhynchus gorbuscha		
Coho or silver	Oncorhynchus kisutch		
Sockeye or blue back	Oncorhynchus nerka		
Masu	Oncorhynchus masu		
Sculpins			
Brown Irish lord	Hemilepidotus spinosus		
Buffalo sculpin	Enophrys bison		
Cabezon	Scorpaenichthys marmoratus		
Great sculpin	Myoxocephalus polyacanthocephalus		
	Leptocottus armatus		
Pacific Staghorn sculpin	Hemilepidotus hemilepidotus		
Red Irish lord			
Seabass and Drums			
White seabass	Cynoscion nobilis		
All other seabass and drums	(Sciaenidae and Serranidae)		

AMENDATORY SECTION (Amending Order 87-03, filed 1/22/87)

WAC 220-48-015 BEAM TRAWL AND BOTTOM TRAWL—SEASONS. (1) It is lawful to fish for and possess bottomfish taken with bottom trawl and beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 22A, 22B, 23A, 23B, 23C, 25A, 25B, 25D, and 29 the entire year with the following exceptions:

(a) Those waters of Area 20A east of a line projected from Point Whitehorn to Sandy Point are closed the entire year.

(b) Those waters of Area 20A within an area bounded by lines from Lilly Point to Birch Point and from the southwest corner of Point Roberts to Point Whitehorn to where these two lines are intersected by a line south from Kwomais Point in British Columbia and a line from Lilly Point to the north Alden Bank buoy are closed April 15 through May 31.

(c) Those waters of Area 20A within an area bounded by lines from Lilly Point to Birch Point and Lilly Point to the north Alden Bank buoy to where those lines are intersected by a line projected approximately 230 degrees south from Birch Point to Alden Point on Patos Island are closed June 1 through June 30.

(d) Those waters of Area 25A lying southerly and westerly of a line projected from Kiapot Point to Gibson Spit (Sequim Bay) are closed the entire year.

((e)) (e) Area 25D is closed from February 1 through April 14 each year.

(2) ((It is lawful to take, fish for and possess bottomfish with bottom trawl and beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 26A, 26B, and 26D from April 15 through February 14 with the following exceptions:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A west of a line from Strawberry Point on Whidbey Island to Brown Point on

~~Camano Island, are closed except from June 15 through February 14.~~

~~(b) Elliot Bay inside a line projected from Four Mile Rock to Alki Point is closed the entire year.~~

~~(c) Those waters of Area 26D south of lines projected from Dash Point to Point Piner on Maury Island, and from Point Dalco on Vashon Island true west to the Kitsap Peninsula are closed the entire year.~~

~~(d) Those waters provided for in WAC 220-20-020(4).~~

~~(3) It is unlawful to take, fish for or possess bottomfish taken with bottom trawl and beam trawl gear for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Areas 24D (Holmes Harbor), 27A, 27B, and 27C (Hood Canal) except on Mondays and Tuesdays from December 1 through February 14.~~

~~(4)) It is unlawful to take, fish for, or possess bottomfish taken with bottom trawl or beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Area 25E except on Monday through Thursday from December 1 through February 14 with the following exception: Those waters of Area 25E lying southerly of a line projected from Mill Point due east to the opposite shore, are closed the entire year.~~

~~((5) It is lawful to take, fish for and possess bottomfish taken with bottom trawl and beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Areas 28A, 28B, 28C, and 28D from December 1 through April 14, with the exception of the following closed waters:~~

~~(a) Those waters of Hale Passage and the Narrows east and north of lines projected from Fox Point on Fox Island true east to the mainland, and from the northwest point on Fox Island true north to the mainland.~~

~~(b) Budd Inlet south of the northern boundary of the restricted berthage area shown on United States Coast Guard Chart No. 6460.~~

~~(c) Eld Inlet south and west of a line projected true south from Flapjack Point.~~

~~(d) Totten Inlet south and west of lines projected true north and true east from the outermost point on the west side of Gallagher Cove.~~

~~(e) Henderson Inlet south of a line projected true east from Dickerson Point, the waters inside Hartstene Island between lines projected from Unsal Point to Brisco Point and Salmon Point true east to Hartstene Island, and all of Hammersley Inlet.~~

~~(f) Those waters provided for in WAC 220-20-010(6).~~

~~(g) Those waters of Area 28A south of a line due west from the northernmost point of McNeil Island, west of a line running north and south between McNeil and Anderson Islands through Eagle Island, and west of a line projected southerly from Lyle Point on Anderson Island through the quick flashing buoy on Nisqually flats and southerly of a line from Johnson's Point to Devil's Head.~~

~~(h) Those waters of Area 28A south of a line projected due west from Johnson Point to Hartstene Island (Dana Passage):~~

~~(6)) (3) It is unlawful to take, fish for or possess bottomfish taken with bottom trawl or beam trawl gear for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Areas 21B, 23D, 24A, 24B, 24C, 24D, 25C, ((and)) 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, and 28D the entire year.~~

~~((7)) (4) It is unlawful to operate bottom trawl or beam trawl in waters less than 60 feet in depth in Marine Fish-Shellfish Management and Catch Reporting Areas ((24A, 24B, 24C, 24D,)) 25A, 25B, ((25C,)) 25D, or 25E, ((26A, or 26B,)) and it is unlawful to operate bottom trawl or beam trawl in waters less than 30 feet deep in all other waters of Puget Sound east of the mouth of the Sekiu River.~~

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

WAC 220-48-029 SET NET—DOGFISH—SEASONS. It is lawful to take, fish for and possess dogfish and other species of bottomfish, except halibut, salmon and shellfish, taken with dogfish set net gear for commercial purposes in the following Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas during the seasons designated below:

(1) Areas 20A and 20B – November 1 through June 15.

(2) Area 21A – March 1 through June 15.

(3) Areas 21B, 22A, 22B, 23A, and 23B – Closed all year.

(4) Areas 23C and 23D – Open all year.

(5) Areas 24A, 24B, and 24D – Open all year.

(6) Area 24C – Open all year, except those waters south of a line projected due east of East Point on Whidbey Island are closed all year.

(7) Areas 25A, 25B and that portion of Area 25C west of a line from Twin Spits to the Port Gamble Millstack – Open all year.

(8) Area 25D and that portion of 25C east of line from Twin Spits to the Port Gamble Millstack – Closed all year.

(9) Area 25E – Closed all year except by permit issued by the director.

(10) Area 26A – Open all year, except those waters southerly and westerly of a line between the ferry dock at Mukilteo and the ferry dock at Clinton are closed all year.

(11) Area 26B – Open all year except those waters provided for in WAC 220-20-020(4) (Shilshole Bay) are closed at all times and those waters west of a line from Point Jefferson to Point Monroe are closed from January 1 to April 15. Those waters west of a line projected 178 degrees true from the end of the Indianola dock to the landfall on the south shore of Port Madison are closed at all times.

(12) Area 26C – Open ((all year)) April 16 through December 31, except those waters north of a line projected true east of Point Bolin and those waters west of a line projected 178 degrees true from the end of the Indianola dock to the landfall on the south shore of Port Madison are closed ((all year)) at all times.

(13) Area 26D – Open all year, except those waters south of lines projected from Dash Point to Point Piner

on Maury Island and from Point Dalco true west to the Kitsap Peninsula are closed all year.

(14) Areas 27A, 27B, and 27C – Open all year.

(15) Area 28A – Open all year, except those waters north of a line projected true east of Fox Point on Fox Island, and east of a line projected due north from the northwest tip of Fox Island are closed all year.

(16) Areas 28B, 28C, and 28D – Open all year except those waters provided for in WAC 220-20-010(6) (upper Carr Inlet).

(17) Area 29 – Open all year.

AMENDATORY SECTION (Amending Order 82-215, filed 12/1/82, effective 1/1/83)

WAC 220-48-062 DRAG SEINES—SEASONS. It is unlawful to take, fish for, and possess bottomfish with drag seine gear for commercial purposes except in the following Marine Fish-Shellfish Management and Catch Reporting Areas during the seasons designated below:

(1) Areas 28A, 28B, 28C, and 28D – Open January 1 through ~~((May 14))~~ April 30.

(2) All other areas – Open September 1 through ~~((May 14))~~ April 30.

AMENDATORY SECTION (Amending Order 1105, filed 12/28/73)

WAC 220-49-017 HERRING, CANDLEFISH, ANCHOVY AND PILCHARD FISHING—OTTER TRAWL. ~~((Lawful otter trawl gear in the Puget Sound))~~ It is unlawful to fish for herring, candlefish, anchovy ~~((and)), or pilchard ((fishery may contain meshes of any size))~~ using otter trawl gear except as authorized by permit issued by the director.

WSR 89-14-011
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 89-49—Filed June 22, 1989]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use rules.

I, Joseph R. Blum, 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 quotas of coho and chinook are available for harvest. This regulation is adopted at the recommendation of the Pacific Fisheries Management Council. There is inadequate time to promulgate permanent regulations because the fishery, by prior agreement, must start on the dates specified.

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

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 21, 1989.

By Judith Merchant
for Joseph R. Blum
Director

NEW SECTION

WAC 220-56-19000L SALTWATER SEASONS AND BAG LIMITS. Notwithstanding the provisions of WAC 220-56-180 and WAC 220-56-190, effectively immediately until further notice it is unlawful to fish for salmon in Punchcard Area 4, Pacific Ocean waters, and Washington waters west of Buoy 10 line except as provided for in this section:

(1) Open to salmon angling:

Sekiu River to Queets River, Sunday through Thursday, July 2 – Sept. 28, 1989 or until a quota of 22,500 coho are caught.

Queets River to Leadbetter Point, Sunday through Thursday, June 26 – Sept. 28, 1989, or until a quota of 91,100 coho are caught.

Leadbetter Pt. to Cape Falcon, Sunday through Thursday, June 26 to Sept. 28, 1989, or until a quota of 111,400 coho are caught.

OR

until a quota of 47,500 chinook are caught.

(2) Bag Limit – 2 salmon per day. Size limit for coho, 16 inch minimum, no maximum. Size limit for chinook, 24 inch minimum, no maximum.

(3) Gear Restriction: It is unlawful to use any terminal gear other than gear with barbless single point hooks.

(4) Closed at the mouth of the Columbia River in a conservation zone bounded on the north by a line projected due west from North Head along 46°18'00" north latitude out 200 nautical miles (the Fisheries Conservation Zone westerly boundary), thence south to 46°11'06" north latitude, thence east to 46°11'06" north latitude, 124°11'00' west longitude (Columbia River Buoy) then northeast along Red Buoy Line to the tip of the south jetty, from which conservation zone no salmon may be taken, except that within these waters it is lawful to angle from the bank only of the north jetty of the Columbia River.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-19000K SALTWATER SEASONS AND BAG LIMITS. (89-19)

WSR 89-14-012
HOSPITAL COMMISSION

[Filed June 22, 1989]

SUNSET RESOLUTION

On June 30, 1989, pursuant to the provisions of chapter 43.131 RCW (Sunset Act), the powers and duties of the Washington State Hospital Commission will be terminated. RCW 43.131.253. The commission, as a terminated state agency, will continue in existence until June 30, 1990, for the sole purpose of concluding its affairs. RCW 43.131.090.

During its first extraordinary session, the 1989 Legislature passed Engrossed Senate Bill 6152, which was signed into law by the governor on May 31, 1989. That bill created a new state Department of Health, effective July 1, 1989. On that date, the department will generally assume the hospital financial and inpatient discharge data collection functions previously performed by the commission.

The purpose of this resolution is to clarify for all concerned the manner in which the commission will transfer the data collection functions to the department of health, and to address the disposition of the commission's remaining functions, as well as a number of ancillary administrative matters.

Section 510(1) of the department of health bill requires the department to develop a state-wide hospital data system, and to publish for public review and comment its first data plan by January 1, 1990. In designing the data system, Section 510(1) also requires the department to undertake a needs assessment of the types of, and format for, hospital data needed by consumers, purchasers, payers, hospitals and state government. However, until such time as the department's data system and first data plan are developed and implemented, and hospitals are able to comply with reporting requirements, Section 510(7) requires the department to continue collecting the hospital financial and patient discharge information previously required to be submitted to the commission.

Accordingly, hospitals should continue to prepare and submit budgets, budget amendments, quarterly reports and year-end reports pursuant to applicable provisions of chapter 261-20 WAC, as well as reports pertaining to changes in existing prices and prices for new services, and patient discharge information (CHARS data), pursuant to applicable provisions of chapters 261-12 and 261-50 WAC, respectively. Existing commission forms and reporting formats will continue to be used until changed by the department. Since all data will be submitted for information purposes only, hospitals should disregard any reference in existing rules or on forms to terms such as "request" and "approval".

Due dates and deadlines for all submittals will remain unchanged, with the exception of budgets and budget amendments. As discussed further below, the commission will no longer review and approve budgets and rates after June 30, 1989. Accordingly, the eighty-three (83) day lead-time for submission of annual budgets, contained in WAC 261-20-040, is no longer required for

detailed review and preparation of a staff report. Therefore, effective immediately, the commission hereby modifies the deadline for submission of annual budgets by granting a blanket extension of fifty-three (53) days; annual budgets may now be submitted thirty (30) days prior to the beginning of a hospital's fiscal year. For similar reasons, the requirement now in WAC 261-20-045 to submit budget amendments "not less than thirty (30) days in advance of the proposed effective date of any associated proposed rate change" is no longer necessary, nor is the limitation therein specifying that "any budget amendment must be received more than one hundred five days prior to the hospital's fiscal year end." The commission hereby dispenses with those limitations, and requests that hospitals submit budget amendments upon learning of facts justifying revision of their existing budgets.

In order to assist the department of health in an orderly transition and assumption of hospital data collection functions, the commission and its present staff, as part of concluding its affairs, will continue to collect the financial and patient discharge data specified above, for and on behalf of the department of health. The commission will also assist the department in assuming its responsibility to monitor the provision of charity care under Section 506 of ESB 6152, by continuing to receive copies of hospital charity care policies and all modifications thereto, which hospitals should continue to submit as formerly required under chapter 261-14 WAC. (Data on charity care provided will continue to be submitted in the quarterly reports referred to above.) Therefore, after July 1, this information should be addressed to the Department of Health, but sent to the current commission address.

Section 508 of ESB 6152 requires that the basic expenses for the hospital data collection and reporting activities of the department of health shall be financed by an assessment against hospitals of no more than four one-hundredths of one percent of each hospital's gross operating costs. The commission and its present staff will continue to calculate the amount of assessment and will mail a statement to each hospital indicating the amount of the assessment. Payments of the assessment should be made payable to and addressed to the Department of Health, but sent to the current commission address until further notice.

With respect to those commission functions and powers which are not transferred to the department of health, i.e., those within the purview of RCW 70.39.140 through 70.39.160 regarding the commission's review and approval of annual budget submittals, hospital rates, rate schedules, other charges and changes therein, neither the commission nor the department will continue to perform such functions or exercise such powers after June 30, 1989. This includes all actions of the commission and requirements imposed under chapter 261-40 WAC. Budgets, and budget amendments, though they must be submitted as discussed above, will not be subject to commission review and approval, nor will hospital rates or changes in rates be subject to suspension, review, approval or delay in implementation. The commission will no longer initiate conformance reviews, and

publication of rate schedules by hospitals in accordance with WAC 261-40-20(3) [261-40-020(3)] will be at the option of individual hospitals. Hospitals will no longer be required to file and make available for public inspection the terms and conditions of negotiated rate agreements, nor will the commission initiate review of or take action to disapprove any such rates pursuant to WAC 261-40-170. Finally, the commission deems moot any pending hearing or other business with respect to those terminated powers and duties discussed herein.

While the commission will continue in existence for one year after June 30, 1989, it will no longer continue to meet on a regular basis, as set forth in WAC 261-02-040(6). Henceforth, the commission will meet only when and as required, by special meeting called pursuant to RCW 42.30.080. Commission staff, though acting for and on behalf of the department of health with respect to data collection during the transition, will continue to perform any required actions on behalf of the commission in concluding its affairs under RCW 43.131.090, at least until such time as those employees are transferred to the department of health pursuant to Section 805 of ESB 6152. Thereafter, the department will effect any remaining wind-down functions for the commission. See, Section 803. Until further notice, commission staff will continue to maintain their present administrative offices, phone numbers and office hours.

This Resolution will be published for record in the Washington State Register, and a copy will be mailed to all who are on the commission's general mailing list. The commission wishes to express its gratitude for the cooperation and assistance of the many individuals and organizations with whom it has dealt over the years. We trust that cooperation will continue during this time of transition.

EXECUTED in Seattle, Washington, this 22nd day of June, 1989.

H. A. "Barney" Goltz, Chairman	Robert Shanewise, M.D.
J. Thomas Byers	Joseph E. Hunt
Marian Troyer-Merkel	Dan Rubin
Evelyn Whitney	John Bencich
V. Marc Droppert	My concurrence with the foregoing resolution does not embrace the statement therein with respect to the mootness of pending hearings.

WSR 89-14-013

PROPOSED RULES

DEPARTMENT OF GENERAL ADMINISTRATION

[Filed June 22, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of General Administration intends to adopt, amend, or repeal rules concerning acquisition of goods and services by the Office of State Procurement and state agencies, colleges and universities.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 9, 1989.

The authority under which these rules are proposed is RCW 43.19.180 - [43.19.]538.

The specific statute these rules are intended to implement is RCW 43.19.180 - [43.19.]538.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1989.

Dated: June 21, 1989

By: Kay K. Hawley, C.P.M.
Deputy

STATEMENT OF PURPOSE

The Office of State Procurement (OSP) desires to modify existing administrative regulations codified under chapters 236-48 through 236-49 WAC series. The following information is provided as requested:

Title and Number of Rule Sections or Chapters: Chapters 236-48 and 236-49 WAC series in their entirety.

Description of Purpose: Modifications are housekeeping in nature to existing WACs and reflect procedural changes implemented to improve internal operation efficiencies, save limited budgeted resources, comply with assistant attorney general (AAG) recommendations and promote professionalism in procurement activities.

Statutory Authority: RCW 43.19.180 through [43.19.]538 and 43.19.700 through [43.19.]704.

Specific Statute Which Rule is Intended to Implement: See above.

Summary of Rule: The above administrative regulations spell out procedures by which acquisitions of "purchased goods and services" are to be made by the Office of State Procurement, state agencies, colleges and universities. Procedures to be followed by the supplier community in the submission of bids to the state; general performance requirements of contractors providing goods and services to state agencies; bidder protest and appeal procedures; credit card rules and regulations; policies and procedures regarding delegation of authority to state agencies; procurement methods; and acquisition of used equipment.

Reasons Supporting the Proposed Action: Current administrative regulations do not, in all cases, reflect current program needs or changes implemented to streamline operations and improve organizational efficiencies. Numerous housekeeping measures are included to ensure administrative efficiency and economy.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of Rules: Kay K. Hawley,

C.P.M.; Robert Jensen, Assistant Attorney General; S. G. Heathers; Donald C. Johnsen, C.P.M.; and John E. Young.

Name of Person or Organizations Proposing the Rule: Department of General Administration, Office of State Procurement.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: Submission of these rule modifications will promote cost efficiencies to the state and bring the Office of State Procurement current with industry standards in certain areas such as bonding requirements, etc. OSP has statewide statutory responsibility for the acquisition of "purchased goods and services", and for related policies and procedures. OSP has no statutory enforcement mandates. There will be no additional costs to the state as a result of these rule modifications.

Whether any of Those Rule Modifications are Necessary as a Result of Federal Law or Federal/State Court Action: No.

Small Business Economic Impact Statement: In that modifications are housekeeping in nature, there will be no foreseeable economic impact upon small businesses.

Chapter 236-48 WAC
~~((DIVISION OF PURCHASING))~~ OFFICE OF STATE PRO-
CUREMENT

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-002 PURPOSE. The purpose of this chapter is to set forth rules and regulations applicable to the purchase or sale of material, equipment, services and supplies by, through, or under authority delegated by, the ~~((state purchasing division))~~ office of state procurement.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-003 DEFINITIONS. As used in ~~((these regulations))~~ this chapter the following terms shall have the following meanings:

(1) Agency. Agency shall include state institutions, colleges, community colleges and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. Agency does not include the legislature.

(2) ~~((An))~~ Alternate. An alternate is material, supplies, equipment or services which ~~((deviate in respect to))~~ is not at least a functional equal in features, performance or use ~~((from))~~ of the brand, model or specification designated as the standard ~~((whether or not such deviation constitutes an improvement))~~.

(3) ~~((An))~~ Equal. An equal is material, equipment, supplies or services which equal or exceed the quality, performance and use of the brand, model or specifications designated as the standard.

(4) Bid. Bid means ~~((an))~~ a written offer to perform a contract to purchase or supply material, equipment, services or supplies in response to a formal solicitation. In the case of oral solicitation of bid(s), written confirmation shall constitute the bid.

(5) Bidder. A ~~((bidder is one))~~ supplier who submits a bid.

(6) Buyer. Any employee of the ~~((state purchasing division))~~ office of state procurement designated as a buyer ~~((or))~~, contract administrator, or similar designation by the director, including, where appropriate, the director and other management personnel. Also, where applicable, any employee(s) of ~~((procuring activities))~~ a purchasing activity with similar duties.

(7) Competitive formal sealed bid procedure. Procedure by which the buyer solicits written bids or quotations from a sufficient number of prospective bidders to assure adequate price and product competition by means of a written invitation for bid (IFB) setting forth bid requirements. All bids are to be submitted in sealed envelopes to the location indicated in bid documents and must be received by the time

indicated therein. No disclosure of bids or bid information is made prior to the public bid opening. After the public bid opening, all bid information shall be referred to the buyer and treated as confidential working papers until after award at which time all bids become public information.

~~((8))~~ Confidential information. Any information meeting the criteria in RCW 42.17.310.

~~((9))~~ Description. Description means identifying information distinctly and plainly set forth and sufficiently portrayed and explained to ~~((insure))~~ ensure that the product or service under consideration is uniquely identified.

~~((10))~~ Director. Except where otherwise specifically noted the term "director" as used in these rules, shall mean the state purchasing and material control director, who is the assistant director, office of state procurement.

~~((11))~~ Emergency purchase. Emergency purchase means a purchase made in response to unforeseen circumstances beyond the control of an agency which presents a real, immediate and extreme threat to the proper performance of essential functions and/or which may reasonably be expected to result in excessive loss or damage to property, bodily injury or loss of life.

~~((12))~~ Informality. An informality or irregularity is one which is merely a matter of form or is some immaterial variation from the exact requirements of the invitation for bids, having no effect or merely a trivial or negligible effect on quality, quantity, or delivery of the supplies or performance of the services being procured, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial to bidders.

~~((13))~~ Invitation ~~((to))~~ for bid. An invitation ~~((to))~~ for bid is the ~~((procedure used))~~ form utilized in the competitive, formal, sealed bid procedure.

~~((14))~~ Quotation. An offer to perform a contract to purchase or supply material, equipment, services, or supplies in response to a request for quotation.

~~((15))~~ Request for quotation. A request for quotation is the ~~((procedure))~~ form used when purchases are solicited in accordance with RCW 43.19.1906 ~~((1))~~ (2) ~~((or-3))~~. The request and the quote in response may be either written or oral as specified by the buyer.

~~((16))~~ Single source purchase. A single source purchase is a purchase of goods or services which ~~((can be obtained from only one vendor))~~ is clearly and legitimately limited to a single source of supply.

~~((17))~~ Specifications. Specifications shall mean the explicit requirements furnished with an invitation ~~((to))~~ for bid or request for quotation upon which a purchase order or contract is to be based. Specifications set forth the characteristics of the equipment, material, supplies or services to be purchased or sold so as to enable the bidder or ~~((vendor))~~ supplier to determine and understand that which is to be supplied or sold. This information may be ~~((either))~~ in ~~((terms of physical characteristics or performance requirements;))~~ the form of (a) description of the physical or performance characteristics; (b) a reference brand name; or (c) both. It may include a description of any requirement for inspecting, testing, or preparing a material, equipment, supplies, or service for delivery.

~~((18))~~ State purchasing division. The state purchasing division is the ~~((division of purchasing))~~ office of state procurement of the department of general administration. Whenever a purchase or sale is made by an agency other than the ~~((state purchasing division))~~ office of state procurement, any reference to the ~~((state purchasing division))~~ office of state procurement in ~~((these regulations))~~ this chapter shall mean such agency. Whenever a purchase or sale is made by the office of state procurement on behalf of another agency, the office of state procurement is acting in the capacity of agent for such agency.

~~((19))~~ Vendor. Supplier of goods and/or services) (19) Supplier. A vendor of purchased goods or services.

~~((20))~~ Purchaser. Purchaser shall mean the state of Washington ~~((and))~~ or the agency or agencies ~~((using))~~ purchasing the material, equipment, supplies or services ~~((purchased))~~.

~~((21))~~ Purchase. Wherever used in ~~((these regulations))~~ this chapter the term purchase shall also include leasing or renting or lease purchase.

(22) Direct buy limit. That dollar amount established by the supply management advisory board (SMAB) whereby competitive acquisition of equipment, supplies, or service is not required.

(23) Sealed bid limit. That dollar amount established by RCW 43.19.1906 (2) and (7), or pursuant thereto, by the office of financial management. Said amount may be lowered by the director, taking into

consideration any advice of the supply management advisory board, pursuant to and consistent with chapter 43.19 RCW.

(24) Contractor. An individual, company, corporation, firm, or combination thereof with whom the state of Washington develops a contract for the procurement of goods and/or services.

(25) Bid bond. Financial guarantee submitted by bidder to protect the interest of the state should bidder decide to withdraw said bid.

(26) Performance guarantee. Financial guarantee submitted by contractor to ensure contractual performance.

(27) Recovered materials. "Recovered materials" means:

(a) "Post consumer waste" which is:

(i) Paper, paperboard, and fibrous wastes from buildings such as retail stores, office buildings, (and) homes, after the wastes have passed through their end-usage as a consumer item, including: Used corrugated boxes, old newspapers, old magazines, mixed waste paper, tabulating cards, and used cordage; and

(ii) All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste; and

(iii) All other items containing plastics, yard waste, metals, glass, rubber, oil, or any other material that is suitable as feedstock in product manufacturing; and

(b) "Secondary waste" including manufacturing and other wastes such as:

(i) Dry paper and paperboard waste generated after completion of the papermaking process, that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets including: Envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting, forming, and other converting operations: Bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock;

(ii) Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;

(iii) Wastes generated by the conversion of goods made from fibrous material, that is, waste rope from cordage manufacture, textile mill waste, and cuttings; and

(iv) Fibers recovered from waste water which otherwise would enter the waste stream.

(28) Used equipment. Goods offered for sale to the state which (a) do not have a full factory warranty, and (b) which are not being rented, leased, or otherwise in the actual possession of the state agency considering the purchase at the time of the purchase transaction.

(29) Purchased goods and services. All materials, equipment, supplies, or services offered for sale by a supplier(s) and required by a state agency to accomplish continuing and necessary functions and not otherwise identified as a personal service under RCW 39.29.006(8) or an architectural and engineering service under RCW 39.80.020(5).

(30) Supplier list. List of potential bidders maintained by the office of state procurement from which names may be drawn for solicitation of bids/quotes.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-004 PROCEDURE FOLLOWED IN THE SOLICITATION OF BIDS. Whenever practicable the governing standard for state purchases is one of competitive bids in combination with a formal sealed bid procedure. The ((state purchasing division)) office of state procurement mails invitations ((to)) for bid to a sufficient number of prospective bidders to elicit adequate competition, such ((vendors)) suppliers being drawn from established ((vendor)) supplier lists and from any other source thought to be of advantage to the state. Invitations to bid may call for bid prices with and without trade-in.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-005 EXCEPTIONS TO COMPETITIVE FORMAL SEALED BID PROCEDURE. (1) Emergency purchase. Emergency purchases need not be procured through a formal sealed bid procedure. Unless revoked by the ((state purchasing division)) office of state procurement, all agencies have the delegated authority to make emergency purchases if notice of such a purchase and the reason therefor is transmitted to the ((state purchasing division)) office of state procurement immediately after the purchase is made, in accordance with RCW 43.19.200.

(2) Purchases not exceeding (((\$2500)) five thousand dollars. Purchases not exceeding (((\$2500)) five thousand dollars may be ((secured)) solicited by the state by other than a formal sealed bid procedure unless the director specifically requires a formal sealed bid.

(3) Single source or special facilities, services or market conditions. Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions may be acquired through direct negotiation with documented source selection.

(4) Used equipment. The purchase of used equipment from private ((vendors)) suppliers is generally considered by the ((state purchasing division)) office of state procurement to be a purchase falling within the exception set forth in subsection (3) of this ((regulation)) section. A ((purchasing or supply activity)) state agency desiring to purchase used equipment shall be responsible to determine what used equipment is available on the market and properly record this search. In the case of a purchase involving used equipment for less than (((\$400)) the sealed bid limit, the ((purchase request must fully justify the acquisition of used equipment. Appraisals are not required. In the case of purchases involving \$400 to \$2500 the agency must submit at least two written appraisals with the purchase request)) agency need not submit the requirement to the office of state procurement. The purchase file located at the state agency shall be fully documented with agency determination as to fair market value. In the case of purchases exceeding (((\$2500 three)) the sealed bid limit, two written appraisals are required to be submitted to the office of state procurement with the purchase request. The purchase request file must contain justification for the acquisition of used equipment and include documentation to sufficiently establish fair market value. All appraisals must be from competent firms or persons not associated with the ((vendor)) supplier or purchaser which certify that the agreed upon price represents a fair market value for the equipment. The appraisals will normally be made by individuals or firms knowledgeable of a particular market, not just knowledgeable of the equipment. For purchases exceeding the sealed bid limit, the appraisals must include a statement as to the fair market value of like goods if purchased new (e.g., with full factory warranty). All equipment with full factory warranty shall be purchased as new equipment.

(5) Purchases from ((sheltered workshops,)) institutional industries and other ((vendors)) suppliers who, under law, receive a preference.

(6) Purchases from sheltered workshops and programs of the department of social and health services as required by law. Fair market value will be as determined by the office of state procurement.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-009 BIDS IN GENERAL. All bids or quotes are subject to the invitation ((to)) for bid or request for quotations, the specifications and plans, the applicable contract terms and conditions and the rules and regulations of the ((state purchasing division)) office of state procurement set forth in this chapter. In the event of conflict among any of the above the following order shall govern:

- (1) Rules and regulations;
- (2) Specifications and plans; and
- (3) Applicable contract terms and conditions.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-011 PUBLIC NOTICE. A listing or copy of all purchases being made through formal sealed bid by or through the ((state purchasing division)) office of state procurement shall be posted in the foyer of the Office of ((the)) State ((Purchasing Division)) Procurement, Room 216, General Administration Building, Olympia, Washington 98504. Purchases ((acquired)) made by ((one)) colleges or ((university)) universities shall be posted or otherwise publicized by the purchasing office of that college or university.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-012 BIDDING OR QUOTING TIME. The bidding or quoting time shall be as determined by the buyer involved. All invitations ((to)) for bid shall provide sufficient time to allow bidders an opportunity to prepare and submit their bid. The buyer shall have the discretion to lengthen or shorten bid or quote times, should special circumstances or needs dictate a shorter or longer time frame. When extending or shortening the time allowed to submit a bid or quote, the buyer is to issue an addendum notifying ((vendors)) bidders of the revised opening/due date. If it is determined that regular mail will not

reach bidders in time to respond, the buyer shall attempt to notify each prospective bidder by telephone or other available means of communication. All bids must be received by the time specified for bid opening. No deviations will be allowed. Late bids will be returned unopened unless retention is deemed by the director to be in the best interests of the state. Quotations must be received by close of the normal business day on the date indicated. Late quotations will ~~((neither))~~ not be considered ~~((nor))~~ or returned to ~~((vendors))~~ bidders. Time of receipt will be determined by the official time stamp located at the office of state procurement.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-013 AMENDMENT OF INVITATION TO BID. An invitation ~~((to))~~ for bid may be changed or amended by the buyer involved, provided the change is issued in writing prior to the bid opening date. ~~((Such changes will be furnished to all interested vendors in the form of an addendum.))~~ Any material information provided a prospective bidder with regard to an invitation ~~((to))~~ for bid, shall be furnished to all bidders ~~((on the vendor list))~~ receiving a copy of the original invitation. Oral interpretations of contract terms and conditions shall not be binding on the state unless confirmed in writing by the buyer ~~((and provided to all bidders at least 24 hours before bid opening)).~~

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-021 ~~((VENDOR))~~ SUPPLIER LISTS. ~~((Vendor))~~ Supplier lists are categorized according to ~~((commodities))~~ specific categories of purchased goods and services and are maintained and updated by the ~~((state purchasing division))~~ office of state procurement. ~~((Vendor))~~ Such lists are used by buyers to determine ~~((vendors))~~ suppliers from which to solicit bids. Due to cost considerations not all suppliers are solicited for each bid invitation. In order to be considered for inclusion on a ~~((vendor))~~ supplier list, ~~((vendors))~~ suppliers must apply to the ~~((state purchasing division on forms available in its offices at 216 General Administration Building, Olympia, Washington 98504))~~ office of state procurement. The office of state procurement may deny issuance of a bid to a prospective supplier if such supplier fails to register on a given supplier list when requested. The office of state procurement may deny or limit placement on supplier list(s) for reason(s) outlined under WAC 236-48-024.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-023 NONACCEPTANCE. If an application to be placed on a ~~((vendor))~~ supplier list is refused, the applicant shall be advised in writing as to the reason for nonacceptance together with suggestions as to how the applicant might qualify in the future.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-024 REMOVAL OR SUSPENSION. The director, or designee, may remove or suspend a ~~((vendor))~~ supplier from any ~~((vendor))~~ supplier list(s) for cause. Examples of reasons for removal or suspension include but are not limited to the following:

- (1) Illegal act(s);
- (2) Repetitive failure to respond to invitations to bid;
- (3) Unreasonable number of "no bid" responses;
- (4) Any material failure to perform, e.g., delivery, quality;
- (5) Any significant detrimental change in supplier status, e.g., financial condition, lines carried, service ability;
- (6) Unauthorized product substitution, or representation of an alternate as an equal; or
- (7) Discriminatory practices.

Any supplier so removed or suspended shall be notified in writing of the reason(s) therefore, the conditions of any removal or suspension, and/or corrective action required for reinstatement.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-025 APPEAL. Any ~~((vendor))~~ supplier removed from a ~~((vendor))~~ supplier list or who is not placed upon ~~((the vendor))~~ such list after request, may appeal the decision to the director or ~~((his))~~ designee. If such an appeal is ~~((to be))~~ made, it must be submitted in writing within ten days of notification of the action taken.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-026 REAPPLICATION OR REINSTATEMENT. If a ~~((vendor's))~~ supplier's application to be placed on a ~~((vendor))~~ supplier list has been refused, or if a ~~((vendor))~~ supplier has been removed or suspended from ~~((a vendor))~~ such list, ~~((the vendor))~~ that supplier may reapply to be placed on ~~((a vendor))~~ such list, or apply for reinstatement when the ~~((causes for removal have been corrected))~~ conditions for reinstatement have been met.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-035 BID BOND(S). The ~~((state purchasing division))~~ office of state procurement may require a bid bond payable to the state in such amount and with such surety or sureties as may be determined by the ~~((division))~~ buyer. Bid bonds may be in the form of a certified check, cashier's check~~((;))~~ or irrevocable letter of credit drawn on separate accounts in banking or savings and loan institutions regulated by the state of Washington, cash or a surety bond payable to the state of Washington. Personal or company checks are not acceptable. Failure to submit a bid bond in the specified form will be a cause for rejection. Bid bonds shall be retained by the state until contract(s) is ~~((executed))~~ awarded. Surety bonds and letters of credit will be returned to bidders after award of contract; cashier's and certified checks or cash will be returned ~~((after the bidder submits an invoice voucher (Form A-19) after which))~~ via a state warrant in the amount of the deposit ~~((is issued))~~. Bidders who regularly ~~((do))~~ conduct business with the state shall be permitted to file an annual bid bond in lieu of bid bonds for individual contracts in an amount determined by the state. ~~((Failure to submit a bid bond in the specified form will be a cause for rejection.))~~ When a bid bond is ~~((required))~~ submitted, the bidder ~~((shall))~~ covenants that he/she will ~~((enter into))~~ accept a contract~~((, if offered))~~ award. Violation of this covenant will result in forfeiture of the bid bond and payment of the same into the Washington state treasury as and for liquidated damages.

NEW SECTION

WAC 236-48-036 PERFORMANCE GUARANTEES. When required in the invitation for bid the successful bidder shall post a performance guarantee in amount(s) specified in the bid. The required performance guarantee shall be in the form of a surety bond with a surety company certified check, cashier's check, cash, irrevocable letter of credit unilaterally payable to the state of Washington, and drawn on separate accounts in banking or savings and loan institutions regulated by the state, or other form acceptable to the state of Washington. The performance guarantee shall be held by the state or deposited to the state account until contract terms have been fully executed to the satisfaction of the state. Interest will not be paid on funds deposited directly with the state.

NEW SECTION

WAC 236-48-052 FACSIMILE BIDS. Facsimile bids or quotations will not be accepted under any circumstances. A facsimile withdrawal of a bid or quotation may be accepted, provided that it is received prior to opening of bids or quotations, it meets the approval of the buyer and is immediately followed up in writing.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-061 HAND CARRIED BIDS. Hand carried bids must be delivered to the bid supervisor at the ~~((state purchasing division))~~ office of state procurement or placed in the bid depository in the ~~((state purchasing division at))~~ office of state procurement on or before the official bid opening time.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-071 FORM OF BID. To receive consideration, bids and quotes shall be made on the form provided by the ~~((state purchasing division))~~ office of state procurement, or on a letter containing the information ~~((and conditions of the appropriate form))~~. If a letter ~~((form))~~ is used it must meet the satisfaction of the buyer, be properly headed and signed, properly marked on the outside of the envelope, ~~((and))~~ received by the time specified, and be accompanied by a signed and completed bid form provided by the state.

Bids must be filled out in ink or with typewriter and properly signed by an authorized representative of the ~~((vendor))~~ bidder. All changes

and/or erasures shall be initialed in ink. The buyer may declare that a quotation (not a bid) prepared in pencil is a minor informality and may accept and consider a clear pencil quotation. ~~((Unless accompanied by satisfactory evidence of a vendor's desire to be bound by his bid, such as a signed cover letter or a bond;))~~ Unsigned bids will be rejected on opening. However, the buyer may accept such bids if it is determined that satisfactory evidence was submitted prior to bid opening which clearly indicates the bidder's desire to be bound by his/her bid such as a signed cover letter or bid bond.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-079 **STANDARD SPECIFICATIONS.** Specifications contained in the invitation ~~((to))~~ for bid will, where practical, be nonrestrictive so as to provide an equal basis for competition and participation by an optimum number of qualified bidders. Unless otherwise specifically provided in the invitation ((to)) for bid, reference to any equipment, material or supplies by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. All bids which offer a different trade name, make, or catalog number must state whether the item offered is an equal or an alternate, and literature which describes the item offered must be provided when available. The final decision as to whether an item is an equal or a satisfactory alternate shall rest with the ((state purchasing division)) office of state procurement. In the absence of a bidder's statement of a bid being an "alternate" it shall be evaluated as an "equal."

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-081 **INTERPRETATION OF SPECIFICATIONS.** In the event of discrepancies or omissions in the bid specifications, or doubt as to their meaning, the ~~((bidder))~~ supplier shall immediately notify the ((state purchasing division)) office of state procurement in writing. In response, written instructions and/or addenda as required shall be sent to ((all interested parties)) suppliers receiving the initial bid document. The ((state purchasing division)) office of state procurement will not be responsible for oral interpretations not confirmed in writing by the ((buyer giving the interpretation at least twenty-four hours before)) office of state procurement prior to bid opening.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-082 **REQUEST FOR SAMPLES, DESCRIPTIVE LITERATURE.** The ~~((state purchasing division))~~ office of state procurement reserves the right to ask for samples, competitive demonstrations, and/or descriptive literature at the bidder's expense. Unless approved in advance by the buyer, samples must be identified to that bid. If not received within a reasonable period of time, as determined by the buyer, a bid may be rejected. If not destroyed in testing or required for quality control, bidders may request return of samples at their expense. ((Unclaimed samples shall become the property of the state sixty days after respective bidders have been notified to pick up their samples or to advise shipping instructions;)) Samples not claimed within ten days after written or verbal notification will be disposed of by the state.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-083 **ACCEPTANCE OF ALTERNATE BID/QUOTE.** The state ~~((purchasing division))~~ shall be under no obligation whatever to accept alternate bids/quotes. However, the office of state procurement shall have the discretion to accept an alternate bid/quote if it can be shown that the alternate substantially conforms to the bid specifications. Bidder must submit complete documentation with bid sufficient to establish product comparison. Unless identified as an alternate, bidder warrants the product bid to be at least equal in quality and performance. If a bidder ((represents an article)) misrepresents his/her bid as being "an equal" when in fact it is "an alternate," his/her bid may be ((disregarded)) rejected and bidder will be liable for damages caused by the misrepresentation.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-084 **PREBID CONFERENCES.** Prebid conferences may be scheduled to ~~((answer))~~ address any questions regarding the ((specifications or, after interested vendors have reviewed the specifications, to discuss proposed changes)) invitation for bid. Changes to

the invitation for bid shall not be binding upon the state unless confirmed in writing by the office of state procurement prior to bid opening.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-085 **IN-STATE PREFERENCE BIDS.** In accordance with the laws of 1983 and chapter 43.19 RCW, the director of general administration shall compile a list of each state, relating to state purchasing, which statutes or regulations the director believes grant a preference to ~~((vendors))~~ suppliers located within that state or to goods manufactured within that state. This list shall be updated on an annual basis and shall include only those states with currently active in-state preference clauses for procuring goods and services and the list shall contain the percentage of preference allowed. States with only reciprocity legislation will not be included on the list. The ((state purchasing division)) office of state procurement will be responsible for the official compilation of the list and notification to impacted state agency, college and university purchasing offices. The notification shall be made by ((state purchasing division)) office of state procurement circular letter.

For the purposes of determining whether to assess a percentage penalty against a ~~((vendor's))~~ supplier's bid, and the amount of that penalty, the buyer in charge of the bid will consider only the business address from which the bid was submitted. It is recognized that under certain circumstances this will adversely affect ((vendors)) bidders with in-state operations whose bids are prepared centrally in an out-of-state office.

Buyers will add the appropriate percentage penalty to each bid bearing the address from a state with in-state preference rather than subtracting a like amount from Washington state ~~((vendors))~~ bidders.

This action will be used only for bid analysis and award. In no instance shall the increase be paid to a ~~((vendor))~~ supplier whose bid is accepted.

This WAC section applies only to formal invitations ~~((to))~~ for bid solicited in accordance with chapter 43.19 RCW.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-093 **AWARD.** A contract shall be awarded to the lowest responsible and responsive bidder based upon, but not limited to, the following criteria where applicable and only that which can be reasonably determined:

(1) The price ~~((including sales tax, compensatory tax;))~~ and the effect of term discounts (not less than ~~((twenty))~~ thirty calendar days after receipt of goods or correct invoice, whichever is later) ~~((but excluding)).~~ Consideration may be given to business and occupation tax returns from in-state suppliers and local sales and use tax cost differences between in-state suppliers. Price may be determined by life cycle costing if so indicated in the invitation ((to)) for bid.

(2) The quality of the articles proposed to be supplied, their conformity with specifications and the purposes for which they are required.

(3) The ability, capacity and skill of the bidder to perform the contract or provide the services required.

(4) The character, integrity, reputation, judgment, experience and efficiency of the bidder.

(5) Whether the bidder can perform the contract within the time specified.

(6) The quality of performance ~~((of previous))~~ on previous contracts for purchased goods or services.

(7) The previous and existing compliance by the bidder with the laws relating to the contract for purchased goods or services.

(8) Servicing resources, capability and capacity.

(9) Lack of uniformity or interchangeability, if such factors are important.

(10) The energy efficiency of the product as projected throughout the anticipated useful life of the product.

(11) The effect of reciprocity assessments, MWBE, institutional industries preferences or other preferences defined by statute or rule.

(12) Such other information as may be secured having a bearing on the decision to award the contract.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-095 **EXCEPTION TO AWARD TO LOWEST RESPONSIBLE BIDDER.** Whenever, in the judgment of the office of state procurement, there is a reason to believe that the lowest ~~((acceptable))~~ responsible and responsive bid is not the best ((price)) bid

obtainable, all bids may be rejected and the ~~((state purchasing division))~~ office of state procurement may call for new bids or enter into direct negotiations to achieve the best possible ~~((price))~~ bid.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-096 PREFERENCE—INSTITUTIONAL INDUSTRIES (~~(- SHELTERED WORKSHOPS AND RECYCLED PAPER))~~). Preference shall be given to the extent allowed by law:

(1) To those materials, equipment, supplies, and services provided by industries authorized and approved by the department of corrections.

(2) ~~((Products and services manufactured or provided by sheltered workshops and programs of the department of social and health services (as required by law, fair market prices will be as determined by the state purchasing division):~~

~~((3) To paper products containing recycled paper if the bids for recycled paper do not exceed the lowest bid offered by suppliers of paper products that are not recycled. Paper products that may be recycled or reused shall be purchased if quality, price, and grade are otherwise equal to other paper products bid. Agencies shall, to the maximum extent economically feasible, purchase paper products with fifty percent of the total weight consisting of post-consumer waste. Exceptions are when printing or duplicating equipment cannot accept paper containing this amount or when use of this paper affects the printing quality.))~~
To bids from firms certified as minority or women-owned businesses by the office of minority and women's business enterprises (OMWBE).

(3) To products containing recovered material if indicated on the invitation for bid, provided that the bidder warrants those product(s) are functionally equivalent to the bid invitation specifications and provided that bid does not exceed the lowest responsive bid received for products without recovered material content otherwise meeting all bid specifications.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-098 REJECTION. No notice will be sent to unsuccessful bidders submitting higher bid/quote pricing than awarded. Bidders whose bids are rejected ~~((for noncompliance))~~ as nonresponsive will be notified of the reasons for such rejection.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-099 ACCEPTANCE OF TERMS. Acceptance shall be expressly limited to the terms and conditions of the contract/bid prescribed by the ~~((state purchasing division))~~ office of state procurement. All material alterations, additional or different terms proposed by the bidder shall be and are rejected unless otherwise provided for in writing by the director or his designee.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-101 TIME OF BIDS. All bids and withdrawals must be received on or before the time specified for bid opening at the place designated in the bid documents. No deviations will be allowed and late bids or withdrawals will be returned unopened. All bids shall be date and time stamped, prior to opening. Precautions will be taken to ~~((insure))~~ ensure security ~~((in respect))~~ of ~~((the))~~ bids. Bids which are received but which do not identify the invitation ~~((to))~~ for bid or the time for bid opening may be opened but solely for identification purposes, and only by officially designated personnel.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-111 HANDLING OF BIDS AT OPENING. The person designated as official bid supervisor shall decide when the time set for bid opening has arrived and shall so declare to those present. The bid supervisor shall then personally and publicly open all bids and read ~~((them out loud))~~ pertinent information as determined by the office of state procurement for recording. The bid form may not be completed, signed, amended or clarified after official opening time. The bid supervisor will, on request, read the documents in detail provided that sufficient time is available. Bids must remain under the control of the bid supervisor or staff.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-121 MISTAKES IN BID DETECTED PRIOR TO BID OPENING. Mistakes in bids detected prior to bid opening

may be corrected by the bidder withdrawing the original bid and submitting a corrected bid to the ~~((state purchasing division))~~ office of state procurement before the bid opening. If there is not sufficient time prior to bid opening to withdraw the original bid and submit a corrected bid, the bidder, or an authorized representative, may correct the mistake on the face of the original bid: PROVIDED, The official opening time has not yet been reached. A corrected bid must be time stamped upon resubmission.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-122 MISTAKES IN BID DETECTED DURING OR AFTER BID OPENING. Bidder mistakes in a bid detected during or after bid opening may not be corrected. If the bidder submits evidence in writing satisfactory to the director or ~~((his))~~ designee that a mistake has been made by the bidder in the calculation of its bid, the director or ~~((his))~~ designee may allow the bid to be withdrawn: PROVIDED, That the claim of mistake and the evidence in support thereof must be made and provided within three business days after the bid has been opened. Compliance with this section within the specified time limit, shall relieve the bidder of forfeiture of its bid bond.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-123 DISCLOSURE OF BID INFORMATION. After award and distribution, the bids of all bidders shall be open to public inspection at the offices of the ~~((state purchasing division))~~ office of state procurement during normal office hours. Copies of documents subject to public disclosure will be made available upon request ~~((to the bid supervisor. The vendors))~~ in accordance with departmental policy. Bidders must provide a ~~((stamped))~~ self addressed stamped envelope to obtain bid results. A copy of awarded purchase order or contract will be provided. Unless noted to the contrary in a bid specification the ~~((state purchasing division))~~ office of state procurement assumes no responsibility for the confidentiality of submitted bids.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-124 MINOR INFORMALITIES OR IRREGULARITIES IN BIDS OR QUOTES. The director of ~~((purchasing and material control))~~ the office of state procurement or ~~((his))~~ designee reserves the right to waive minor informalities or irregularities as defined in WAC 236-48-003. ~~((Minor informalities or irregularities may be corrected by the director or his designee after clearly noting the reasons for the action in the purchase file.))~~

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-131 CANCELLATION OF INVITATION TO BID OR REJECTION OF ALL BIDS. The ~~((state purchasing division))~~ office of state procurement reserves the right to reject all bids or to cancel an invitation or request ~~((, however, every effort will be made to guard against such an occurrence.))~~. Examples of reasons for cancellation of an invitation, or request, or rejection of all bids are:

- (1) Inadequate or ambiguous specifications.
- (2) Specifications have been revised.
- (3) Supplies or services being purchased are no longer required.
- (4) Change in agency requirements.
- (5) All bids are deemed unreasonable or sufficient funds are not available.
- (6) Bids were not independently arrived at, or were submitted in bad faith.
- (7) A determination is made that all the necessary requirements of the bid process have not been met.
- (8) Insufficient competition.
- (9) For reasons which indicate that cancellation or rejection of all bids is clearly in the best interest of the state.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-141 PROTESTS AND APPEALS—FORM AND SUBSTANCE. All protests and appeals must be in writing and signed by the protestant or appellant or an authorized agent. Such writing must state all facts and arguments on which the protestant or appellant is relying as the basis for its action. Such protestant or appellant shall also attach, or supply on demand by the director, any relevant exhibits referred to in the writing. Copies of all protests, appeals, and exhibits shall be mailed or delivered by the protestant or appellant to the bidder or bidders against whom the protest is made at the same

time such protest, appeal, and exhibits are submitted to the ~~((state purchasing division))~~ office of state procurement.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-142 PROTEST PROCEDURE PRIOR TO AWARD. After a bid opening, and prior to award, a bidder desiring to protest the bid of another bidder must send or deliver its protest to the buyer in charge of the bid as soon as possible after it becomes aware of the reason(s) for the protest. If the protest is mailed the protestant shall immediately notify the buyer in charge of the bid by telephone, or some other means of instant communication, that a protest is being made.

The buyer shall consider all of the facts available ~~((to him;))~~ and issue ~~((his))~~ a decision in writing within ~~((two))~~ ten business days after receipt of the protest, unless more time is needed. The protestant and the bidder(s) against whom the protest is made will be notified if longer time is necessary. If the protesting bidder or the bidder against whom the protest is made is not satisfied with the decision of the buyer, he/she shall have the right to appeal to the director. Such appeal must be received by the director within five business days after notification of the buyer's decision. The director shall consider all of the facts available ~~((to him;))~~ and issue ~~((his))~~ a decision in writing within ~~((three))~~ ten business days after receipt of the appeal, unless more time is needed. The appealing bidder will be notified if longer time is necessary.

Unless an emergency exists, award of the contract, if one is to be made, will be postponed until after the director has issued ~~((his))~~ a decision.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-143 PROTEST PROCEDURE AFTER AWARD. Protests after award will not be considered unless the protest concerns a matter which arises after the award or could not reasonably have been known or discovered prior to award. Such protests shall be ~~((made to))~~ received by the director not later than five business days after mailing of the award. If the protest is mailed the protestant shall immediately notify by telephone, or some other means of instant communication, the buyer in charge of the bid and the bidder that has received the award that a protest is being made. The director shall consider all of the facts available ~~((to him;))~~ and issue ~~((his))~~ a decision on the protest within ~~((five))~~ ten business days after receipt thereof, unless more time is needed. In such event, the protestant and the bidder that has received the award shall be notified of any delay.

If the director finds that the award should not have been made he/she shall notify the bidder which received the award of his/her intent to cancel the award and the reasons therefor. Such bidder shall then have ~~((three))~~ five business days in which to appeal the decision to the director of general administration. The director of general administration shall consider all of the facts available ~~((to him;))~~ and issue ~~((his))~~ a decision within ~~((five))~~ ten business days after receipt of the appeal, unless more time is needed. If more time is needed, the appellant and the protestant shall be so notified.

If the director of general administration agrees that the award should be canceled he/she shall order the director of the ~~((state purchasing division))~~ office of state procurement to cancel the award ~~((three))~~ within ten business days after the decision is delivered to the bidder to whom the contract had been awarded. All bids shall then be rejected and new bids solicited.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-151 VIOLATION OF CONTRACT TERMS. If a ~~((vendor))~~ contractor fails to deliver, or deliver on time, or there is discrepancy in the quality and/or quantity of services or merchandise received, or there is a default in any other contract provision, the purchaser shall notify the ~~((vendor))~~ contractor. In the event of an unsatisfactory response from the ~~((vendor))~~ contractor, the purchaser shall file a fully documented complaint with the ~~((state purchasing division))~~ office of state procurement.

The ~~((state purchasing division))~~ office of state procurement shall verify the complaint, note the same in the ~~((vendor's))~~ contractor's record and take appropriate action. Where a complaint is justified, the ~~((vendor))~~ contractor shall be notified that an unsatisfactory condition exists and that the unsatisfactory condition must be cured within a ~~((reasonable))~~ stated time. If the condition is not so cured, the ~~((state~~

~~purchasing division))~~ office of state procurement shall have the discretion to do any or all of the following: To remove the ~~((vendor))~~ contractor from the relevant ~~((vendor))~~ supplier list; demand performance of the contract; modify or cancel the contract and purchase elsewhere; and pursue any other legal remedies available.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-152 OFFSET AGAINST ~~((VENDOR))~~ CONTRACTOR PAYMENTS. In addition to other methods of collection available, the ~~((state purchasing division))~~ office of state procurement may offset any damages for which the ~~((vendor))~~ contractor is responsible against payments owing to the ~~((vendor))~~ contractor from the purchaser or any other agency which may be indebted to the ~~((vendor))~~ contractor.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-153 DELIVERY DATE. Whenever a specific delivery date has been stated, that date shall be an essential condition of the contract. If a ~~((vendor))~~ contractor is unable to meet the delivery date, he/she shall notify the purchaser and the ~~((state purchasing division))~~ office of state procurement at the earliest possible time. The contractor shall include in such notification the projected revised delivery date. The purchaser shall then have the option to cancel such revised dates, or cancel and purchase elsewhere.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-155 RECORDING OF CONVERSATIONS. RCW 9.73.030 prohibits the recording or interception of the private conversations and communications of individuals without their knowledge and consent. A violation of this statute shall be considered grounds for cancellation of a contract and removal from all ~~((vendor))~~ supplier lists.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-162 PRODUCT FITNESS. ~~((The vendor shall))~~ By submission of a bid, bidder warrants that the articles supplied under the contract ~~((shall))~~ conform to the specifications and functional performance requirements, and are fit for the purpose for which such goods are ordinarily employed.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-163 NONDISCRIMINATION. Bidders and ~~((vendors))~~ contractors must agree not to discriminate against any client, employee or applicant for employment or services because of race, creed, color, national origin, sex, marital status, age or the presence of any sensory mental or physical handicap with regard to, but not limited to, the following: Employment upgrading; demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; selection for training, rendition of services. It is further understood that any ~~((vendor))~~ contractor who is in violation of this clause or an applicable affirmative action program shall be barred forthwith from receiving awards of any contract from the ~~((state purchasing division))~~ office of state procurement unless a satisfactory showing is made that discriminatory practices or noncompliance with applicable affirmative action programs have terminated and that a recurrence of such acts is unlikely.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-164 PRICE ESCALATION. ~~((Vendors))~~ Contractors shall not be entitled to ~~((a))~~ price escalation except where specifically provided for in writing in the contract.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-165 CHANGE IN PRODUCT OFFERED. A ~~((vendor))~~ bidder or contractor shall not be allowed to substitute material, supplies, equipment or services from that offered: PROVIDED, HOWEVER, If the material, supplies, equipment or services offered are no longer available to the ~~((vendor))~~ bidder or contractor for reasons beyond its control, the ~~((state purchasing division))~~ office of state procurement may consider a request by the ~~((vendor))~~ bidder or contractor for substitution. All such requests must be in writing, must set forth the reasons the product or service is no longer available, and must be accompanied by samples, record of performance, certified

copies of tests by impartial and recognized laboratories, and such additional data as the purchaser may request. Samples and data shall be furnished sufficiently in advance to allow for investigation before a decision is made. ~~((If the change is approved,))~~ The ~~((vendor))~~ bidder or contractor shall warrant that the ~~((substitute))~~ contracted article is equal or better than the specified article. If the change results in any cost savings to the ~~((vendor))~~ bidder or contractor, the cost savings shall be reflected in full in a reduction in price to the using agency.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-166 ~~((RENEWAL))~~ EXTENSION. If basic contract provisions allow, a ~~((vendor))~~ contractor and the ~~((state purchasing division))~~ office of state procurement may covenant and agree that the contract in question may be ~~((renewed))~~ extended for predetermined periods by the ~~((state purchasing division))~~ office of state procurement under the same terms and conditions ~~((of))~~ as comprise the original contract.

The buyer shall have discretion to ~~((renew,))~~ extend a contract with the ~~((reasons))~~ justification for ~~((renewal))~~ extension being documented. The ~~((vendor))~~ contractor shall be notified in writing of the ~~((intent to renew))~~ state's desire to extend prior to the termination date of the existing or ~~((renewed))~~ extended contract. If the ~~((vendor))~~ contractor does not wish to have the contract ~~((renewed))~~ extended, he/she shall so notify the ~~((state purchasing division))~~ office of state procurement in writing ~~((renewals))~~. Extensions, to be effective, must be ~~((reduced to))~~ in writing and signed by authorized representatives of both the ~~((vendor))~~ contractor and state.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-167 ADDITIONS OR DELETIONS TO THE CONTRACT. Within reason, the ~~((state purchasing division))~~ office of state procurement may increase or decrease the items ~~((or))~~, quantities, or locations specified in a contract.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-230 LEASES. If an agency, in the exercise of its delegated authority, leases material, supplies, equipment, or services the state standard form lease shall be used. Any deviations therefrom must be approved as to form by the ~~((state purchasing division))~~ office of state procurement and the attorney general's office.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-240 LATE PAYMENTS. The purchaser should make payment expeditiously in order to benefit from prompt payment discounts. If the purchaser fails to make timely payment, ~~((vendor))~~ the contractor may invoice for a minimum of one dollar or a maximum of one percent per month, on the amount overdue. Complaints made to the ~~((state purchasing division))~~ office of state procurement with regard to late payment will be referred to the purchaser. For effective communication and supervision, copies of correspondence dealing with delays in payment should be directed to the buyer in charge of the contract.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-250 USE OF CREDIT/CHARGE CARDS. All credit/charge cards, other than those for gasoline, vehicle rental, travel, and telephone, shall be ordered by the director of an agency or ~~((his))~~ designee. It shall not be mandatory upon an agency to obtain credit or charge cards.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-251 DISTRIBUTION OF CREDIT/CHARGE CARDS. Agency heads (or their designees) shall institute a system for responsibility, control and distribution of credit/charge cards within each agency. Control shall be so structured that, upon request of the ~~((state purchasing division))~~ office of state procurement, each agency will be able to report the number of cards used, the type of cards used, the amount of purchases made by card within a stated time together with any problems they have encountered.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-48-252 CREDIT LIMITS. When an agency determines that the use of credit/charge cards will be to its advantage, the

source will be the existing state contract ~~((with a financial institution)).~~ The ~~((contract establishes a credit limit of \$2,500 for each ordering agency. Within the agency, the director will establish the credit limit for each card ordered, with the aggregate credit limit for each agency to be no more than \$2,500.))~~ director will establish an aggregate credit limit for each agency. Each agency director will then establish a credit limit for each card ordered within that aggregate limit. Any requests for exception to ~~((this))~~ the agency aggregate monetary limit must be made in writing by the agency head to the director ~~((of state purchasing)),~~ office of state procurement, who will approve or deny. Dollar limitations shall not apply to travel related expenditures such as food, lodging, airfare, and vehicle rental.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 236-48-161 PERFORMANCE BONDS.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-49-001 PURPOSE. The purpose of this chapter is to set forth rules and regulations governing the relationship and procedures between the ~~((state purchasing division))~~ office of state procurement and state agencies.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-49-010 DEFINITIONS. As used in ~~((these regulations))~~ this chapter the following terms shall have the following meanings:

(1) ~~((Contract))~~ Field order. ~~((On A-38 (computerized) or A-17 (noncomputerized) series))~~ A standard state form used to make withdrawals from existing state contracts ~~((where price performance, vendor, and/or quality have been))~~ established by the office of state procurement or where agency direct purchases have been authorized.

(2) Director. Except where otherwise specifically noted in these regulations, director shall mean the state purchasing and material control director, who is the assistant director of the office of state procurement.

(3) ~~((Field order. An A-17 series form signed by an authorized agent of the state purchasing division, a state agency or institution, which notifies the vendor to provide the stated material, equipment, supplies or services under the terms and conditions set forth or referred to from the purchasing document.))~~

(4) Purchasing activity. Purchasing activity shall mean the state purchasing division or the purchasing department of a college, university or community college.

(5) Purchase order. ~~((An A-16 series))~~ A standard state form signed by an authorized agent of the ~~((state purchasing division))~~ office of state procurement which notifies the ~~((vendor))~~ contractor to provide the stated material, equipment, supplies or services under the terms and conditions set forth ~~((or referred to on the purchasing document))~~ thereon.

~~((6))~~ (4) Purchase requisition. A ~~((request from a using agency or institution submitted on form A-15 for material, equipment, supplies or services which authorizes a supply or purchasing activity to procure))~~ standard state form which serves as a procurement request and which authorizes the office of state procurement to provide stated requirements.

~~((7))~~ State purchasing division (5) Office of state procurement. The ~~((state purchasing division))~~ office of state procurement means the division of purchasing of the department of general administration.

(8) Supply activity. Supply activity means the supply operations of all state institutions, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, the offices of all appointive officers of the state, and departments, divisions or other academic or administrative sections within colleges and universities. Supply activity does not include the legislature. (6) Materials management center. That activity managed by the department of general administration office of state procurement whose function is to provide for the:

(a) Centralized storage and distribution of commonly used supplies and equipment to ensure administrative efficiency and economy in such purchases by state agencies;

(b) Centralized salvage, maintenance, repair, and servicing of equipment, furniture, or furnishings used by state agencies.

(7) Delegated authority.

(a) General. Those purchases delegated annually by the office of state procurement which are common to multiple state agencies.

(b) Specific. Those purchases delegated to specific agencies for continuing individual commodity requirements.

(c) Limited. Those purchases delegated to a specific agency for one-time commodity requirements.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-49-020 WASHINGTON STATE PURCHASING STRUCTURE. The ~~((state purchasing division))~~ office of state procurement has been charged by the legislature with the responsibility to purchase all material, supplies, services (except personal services) and equipment ~~(except data processing and telephone equipment/systems)~~ needed for the support, maintenance and use of all state institutions, colleges, community colleges and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. Primary authority for the purchase of specialized equipment, instructional and research material for their own use rests with the colleges, community colleges and universities. Primary authority for the purchase of materials, supplies and equipment for resale to other than public agencies rests with the state agency concerned. The legislature has the responsibility of making purchases necessary for the operation of the legislature. Primary authority for purchase of automatic data processing equipment and telephone equipment/systems rests with the ~~((data processing authority))~~ department of information services.

The ~~((state purchasing division))~~ office of state procurement has authority to delegate to state agencies authorization to purchase or sell, which authorization shall specify types of material, equipment, services and supplies: PROVIDED, That acceptance of the purchasing authorization by a state agency does not relieve such agency from conformance with RCW 43.19.190 through 43.19.1939, as now or hereafter amended, from chapter 236-48 WAC, or from policies established by the director after consultation with the state supply management advisory board. The delegation of such authorization to a state agency, including an educational institution, to purchase or sell material, equipment, services, and supplies shall not be granted, or otherwise continued under a previous authorization, if such agency is not in substantial compliance with overall state purchasing and material control policies, chapter 236-48 WAC or RCW 43.19.190 through 43.19.1939.

~~((In order to efficiently carry out the various purchasing authorities, state agencies are divided into purchasing activities and supply activities:))~~

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-49-030 ~~((STATE PURCHASING DELEGATION))~~ DELEGATED AUTHORITY. The ~~((state purchasing division))~~ office of state procurement shall ~~((handle))~~ administer all purchases and sales for state agencies except those for which the agencies have ~~((primary))~~ statutory or delegated authority. ~~((Purchases and sales which have been delegated to supply activities and to purchasing activities are set forth in the "Washington state purchasing directives" issued by the state purchasing division. In addition, the state purchasing division may delegate authority to specific supply activities or specific purchasing activities for other types of purchase or sale or a specific purchase or sale. In such event the))~~ Delegated purchases are set forth in: (1) General authorities; (2) specific authorities; and (3) limited authorities. All delegations must be given in writing prior to the purchase or sale.

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-49-040 TYPES OF PURCHASING. ~~((State purchasing))~~ Acquisition of purchased goods and services by the office of state procurement is divided into three major types:

(1) ~~((Centralized purchasing:))~~ State contracts: Term contracts for material, supplies, services, and equipment in common use by state agencies ~~((are bid on a periodic basis. Any agency which is in need of such items or services must purchase from such contracts regardless of whether authority to purchase such items or services has been delegated to it)).~~ The contract document will identify the condition(s) under which usage by state agencies is required.

(2) ~~((Central stores:))~~ Materials management center: The ~~((state purchasing division))~~ office of state procurement maintains ~~((central~~

~~stores))~~ a materials management center for the storage and distribution of a wide variety of supplies in high common use. Any agency which is in need of such supply items must purchase from ~~((central stores))~~ the materials management center regardless of whether authority to purchase such supply items has been delegated to it. In addition, ~~((central stores))~~ the materials management center also handles the maintenance, repair and servicing of office equipment used by state agencies in ~~((the Olympia area))~~ their servicing areas.

(3) ~~((Purchase of))~~ Single acquisitions: Specific material, supplies, equipment or service ~~((s. Any supply activity desiring to purchase material, supplies, equipment or services))~~ acquisitions by the office of state procurement for which authority has not been delegated, for which there is no existing contract, or which ~~((central stores))~~ the materials management center is unable to supply, must ~~((submit))~~ be made by submitting a purchase requisition to the ~~((state purchasing division or appropriate purchasing activity))~~ office of state procurement. Such requisition must refer to any applicable Washington state specifications, standards and qualified products lists unless otherwise provided by the director or ~~((his))~~ designee. Requests to use specifications, standards or qualified products which differ from the established Washington state specifications, standards and qualified products must be in writing to the director or ~~((his))~~ designee. A purchase requisition must describe the items requisitioned in such detail and in such full and explicit terms as to be easily understood by bidders. Diagrams, specimens, samples and other illustrative material should be included with a requisition, where appropriate. If a proprietary item is ~~((desired))~~ required, the agency must attach adequate justification ~~((therefor)).~~ After consultation with the using agency, the ~~((state purchasing division))~~ office of state procurement may select equal or alternate items offered by bidders if the equal or alternate items offered will perform the same function as the specified item and if the quality is equal or greater.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-49-060 COOPERATIVE PURCHASING. Under the authority of chapter 39.34 RCW, political subdivisions may enter into an interlocal cooperative purchasing agreement with the ~~((state purchasing division))~~ office of state procurement. Participation is voluntary—A political subdivision may use state contracts and purchase orders when the ~~((state purchasing division need not make all contracts available))~~ office of state procurement provides therefore.

AMENDATORY SECTION (Amending Order 83-03, filed 8/26/83)

WAC 236-49-061 COOPERATIVE PURCHASING PROGRAM FEE. In order to distribute contract copies to political subdivisions in a ~~((current mode))~~ manner similar to that provided for state agencies ~~((distribution)),~~ it is necessary to require payment of an annual fee to cover costs. This fee may be adjusted periodically to reflect current program costs. When the nature of a contract requires that the political subdivision orders be prepared by the ~~((state purchasing division))~~ office of state procurement, an additional charge per order processed may be assessed.

WSR 89-14-014
EXECUTIVE ORDER
OFFICE OF THE GOVERNOR
[EO 89-05]

ESTABLISHING THE COMMISSION ON AFRICAN-AMERICAN AFFAIRS

WHEREAS, it is the public policy of the State of Washington to ensure equal opportunity for all of its citizens, and

WHEREAS, for economic, social, and historical reasons, a disproportionate number of African-Americans find themselves disadvantaged or isolated from the benefits of equal opportunity, and

WHEREAS, it is the duty of the State to improve the well-being of African-Americans by enabling them to participate fully in all fields of endeavor and assisting them in obtaining governmental services, and

WHEREAS, the development of public policy and the delivery of governmental services to meet the special needs of African-Americans can be improved by establishing a focal point in state government for the interests of African-American citizens, and

WHEREAS, by ensuring that the benefits of equality are available to African-Americans, efforts to make all citizens equal in fact and not just theory are reinforced, and

WHEREAS, the Legislature in Laws of 1989, 1st ex. sess., ch. 19, sec. 113(3), appropriated \$225,000 to the Office of the Governor for the administration and activities of the Governor's Commission on African-American Affairs;

NOW, THEREFORE, I, Booth Gardner, Governor of the State of Washington, by virtue of the power vested in me, hereby direct as follows:

1. There is created the Washington State Commission on African-American Affairs, hereinafter referred to as "the commission". The commission shall be administered by an executive director, who shall be appointed by, and serve at the pleasure of, the Governor. The Governor shall set the salary of the executive director. The executive director shall employ the staff of the commission.
2. The commission shall consist of nine members, appointed by the Governor. The commission shall make recommendations to the Governor on appointment of the chair of the commission. The Governor shall appoint the chair of the commission. To the extent practicable, appointments to the commission shall be made to achieve a balanced representation based on African-American population distribution within the state, geographic considerations, sex, age and occupation. Members shall serve three-year terms. However, of the initial appointees, one-third shall serve three-year terms, one-third shall serve two-year terms, and one-third shall serve a one-year term. In the case of a vacancy, appointment shall be for the remainder of the unexpired term.

No member shall serve more than two full consecutive terms. Members shall be reimbursed for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. Five members shall constitute a quorum for the purposes of conducting business.
3. The commission shall have the following powers and duties:
 - A. Examine and define issues pertaining to the rights and needs of African-Americans, and make recommendations to the Governor and state agencies for changes in programs and laws.

- B. Advise the Governor and state agencies on the development and implementation of policies, plans, and programs that relate to the special needs of African-Americans.
- C. Acting in concert with the Governor, advise the Legislature on issues of concern to the African-American community.
- D. Establish relationships with state agencies, local governments, and private sector organizations that promote equal opportunity and benefits for African-Americans.
- E. Receive gifts, grants, and endowments from public or private sources that are made for the use or benefit of the commission and expend, without appropriation, the same or any income therefrom according to the terms of such gifts, grants or endowments.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia this 20th day of June, A.D., nineteen hundred and eighty-nine.

Booth Gardner

Governor of Washington

BY THE GOVERNOR:

Ralph Munro

Secretary of State

**WSR 89-14-015
ADOPTED RULES
STATE PATROL**

[Order 89-04-ESR—Filed June 23, 1989]

I, George B. Tellevik, director of the Washington State Patrol, do promulgate and adopt at the General Administration Building, Olympia, the annexed rules relating to towing businesses, adopting chapter 204-91A WAC; and repealing chapter 204-91 WAC.

This action is taken pursuant to Notice No. WSR 89-10-029 filed with the code reviser on April 27, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington State Patrol as authorized in RCW 46.35.005 [46.37.005].

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.

APPROVED AND ADOPTED June 23, 1989.

By George B. Tellevik
Chief

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 204-91-010 AUTHORITY.
- WAC 204-91-020 PURPOSE.
- WAC 204-91-030 DEFINITIONS.
- WAC 204-91-040 APPLICATION FOR LETTER OF APPOINTMENT.
- WAC 204-91-050 APPLICATION.
- WAC 204-91-060 CERTIFICATE OF APPROVAL.
- WAC 204-91-070 INSPECTIONS.
- WAC 204-91-080 CERTIFICATION.
- WAC 204-91-100 ISSUANCE OF A LETTER OF APPOINTMENT.
- WAC 204-91-110 SUSPENSION OR REVOCATION OF LETTER OF APPOINTMENT.
- WAC 204-91-120 PROCEDURE.
- WAC 204-91-130 APPEAL.
- WAC 204-91-140 COMPLAINTS.
- WAC 204-91-150 BUSINESS OFFICE AND BUSINESS HOURS.
- WAC 204-91-160 TOWING PROCEDURE.
- WAC 204-91-170 TOW ZONES.
- WAC 204-91-180 MINIMUM STANDARDS FOR TOW TRUCKS.
- WAC 204-91-190 VEHICLE TOWING OPERATOR QUALIFICATIONS.
- WAC 204-91-200 EFFECTIVE DATE.

Chapter 204-91A WAC
TOWING BUSINESSES

WAC

- 204-91A-010 Authority.
- 204-91A-020 Purpose.
- 204-91A-030 Definitions.
- 204-91A-040 Inspections.
- 204-91A-050 Certification.
- 204-91A-060 Application for letter of appointment.
- 204-91A-070 Issuance of a letter of appointment.
- 204-91A-080 Suspension or revocation of letter of appointment.
- 204-91A-090 Hearing procedure.
- 204-91A-100 Appeal.
- 204-91A-110 Complaints.
- 204-91A-120 Business office hours and records.
- 204-91A-130 Personal property handling procedures.
- 204-91A-140 Fees.
- 204-91A-150 Towing procedure.
- 204-91A-160 Tow zones.
- 204-91A-170 Minimum tow truck equipment standards.
- 204-91A-180 Vehicle towing/operator qualifications, restrictions, and requirements.

NEW SECTION

WAC 204-91A-010 AUTHORITY. This chapter is adopted pursuant to RCW 46.37.005, 46.55.050, and 46.61.567 which require that rules, regulations, and

equipment standards for tow trucks be made and to provide for the removal from the highway of disabled, abandoned, or damaged motor vehicles, or the removal of vehicles when the driver is intoxicated or otherwise incompetent.

NEW SECTION

WAC 204-91A-020 PURPOSE. This chapter is intended to implement the public policy expressed by the legislature and to carry out the statutory duties of the Washington state patrol.

All registered tow truck operators providing service as a result of being appointed by, or contracted to the Washington state patrol shall conduct all operations in accordance with all applicable laws of the state of Washington and applicable rules of the Washington state patrol and the department of licensing.

NEW SECTION

WAC 204-91A-030 DEFINITIONS. The following definitions shall apply throughout this chapter:

(1) "Patrol" means the Washington state patrol as defined in RCW 43.43.010.

(2) "Chief" means the chief of the Washington state patrol.

(3) "Department" means the Washington state department of licensing.

(4) "Director" means the director of the department of licensing.

(5) "Tow truck permit" means the permit issued annually by the department that has the classification of service the tow truck may provide stamped upon it.

(6) "Registered tow truck operator" or "operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles, or in the disposal of abandoned vehicles.

(7) "Tow truck" means a motor vehicle that is equipped for and used in the business of towing or otherwise transporting other vehicles with specific equipment approved by the state patrol.

(8) "Tow truck number" means the number issued by the department to tow trucks used by a registered tow truck operator in the state of Washington.

(9) "Tow truck service" means the towing, moving, transporting, or impounding of vehicles, together with personal effects and cargo, by a registered tow truck operator utilizing equipment approved by the equipment and standards review section (ESR) of the patrol.

(10) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(11) "Place of business" means a building which the registered tow truck operator occupies, either continuously or at regular times, where tow business books and records are kept and tow business is transacted in each assigned tow zone.

(12) "Vehicle storage area" means the approved yard/buildings (primary and secondary) where stored vehicles are kept. The storage areas and fencing will

comply with the requirements as established by the department and all local zoning rules and regulations. Both primary and secondary storage areas must be physically located within tow zone assigned to the operator.

(13) "Special event" means any event which causes an unusually large number of impounded vehicles and/or tow calls in a short period of time and is so declared by the district commander or designee.

(14) "Special event storage area" means an area used for temporarily storing vehicles impounded/towed from special events. Approval for such areas shall be obtained from the department, the patrol, and appropriate city and county jurisdictions.

(15) "District commander" means the commanding officer of an area established by the Washington state patrol.

(16) "Inspector" means a commissioned officer of the Washington state patrol who has been designated as a tow truck inspector by the patrol.

(17) "Tow zone" means that specific geographical area designated by the district commander for the removal of vehicles as defined in Title 46 RCW and this chapter.

(18) "ESR" means the equipment and standards review section of the Washington state patrol.

(19) "Letter of appointment" means a letter issued by the ESR that authorizes a registered tow truck operator to tow and store vehicles on a rotational or contractual basis, in a specific area, for the Washington state patrol.

(20) "Initial tow" means services provided as a result of an original call, on a particular vehicle, that the tow operator receives from the patrol as a result of contract or rotational call list.

(21) "Secondary tow" means towing services from an operator's storage facility or place of business, to another location designated by the owner/agent of a vehicle that was initially towed as a result of call from the patrol.

NEW SECTION

WAC 204-91A-040 INSPECTIONS. Upon the request of a registered tow operator or applicant, the patrol shall conduct an inspection of the applicant's place of business, facilities, and equipment to determine if the applicant meets the requirements of chapter 46.55 RCW, or Titles 308 and/or 204 WAC. Verification must be shown to the inspector that the applicant complies with all applicable local laws and regulations as prescribed for the geographical area where the towing business will be established. If local zoning regulations are applicable, a copy of the certification of approval from the local zoning commission will be furnished to the inspector. This certification may be included in the department's application form for license. The certification will become a part of the permanent record maintained on each approved towing firm by the ESR.

(1) Reinspections will be conducted at least once a year. Unscheduled inspections may be conducted without notice at the operator's place of business by an inspector to determine the fitness of tow trucks, facilities, and business records.

(2) If reinspection of a previously-approved tow truck reveals equipment defects, one of the following procedures shall apply:

(a) In the event of a safety-related defect which would render the tow truck a safety hazard upon the public highway, a red "out-of-service" sticker shall be affixed immediately by the inspector.

(b) In the event of missing or defective equipment that does not constitute a safety hazard but is required, the inspector shall advise the operator of the defect. If after ten days the operator fails or refuses to repair the defect, the red out-of-service sticker shall be affixed.

(c) Upon confirming the satisfactory repair of the defect or defects that caused the tow truck to be taken out of service, the inspector shall remove the red sticker. In the event that the original inspector is not available to reinspect the equipment, another patrol officer appointed by the appropriate supervisor may do so. The reinspection shall be completed as soon as possible after the operator advises the patrol that the defect has been repaired. Whenever practicable this shall be done within three days and may require the operator to bring the truck to the inspector.

(d) Upon sale or other transfer of a tow truck from the business, the operator shall so advise the inspector who will obtain the issued cab card permit and will remove any decals indicating truck class, district and/or zone. The permit will be forwarded to the department by the inspector who will also advise the ESR of the action taken.

(e) Upon the purchase or acquisition of any additional or replacement tow truck(s) to be used pursuant to this chapter, the operator shall immediately notify the patrol and request an inspection of the new unit. The new unit shall not be used for public or private impound calls until satisfactory inspection is completed and a cab card permit and/or decals for the vehicle has been issued by the department and/or patrol.

(3) On original inspection, and subsequent reinspection, the inspector shall confirm the identities and status of driving privilege of all persons that operate the tow trucks. The inspector shall notify the operator if any person does not meet the minimum license requirements.

(a) In the event that an operator becomes aware that the driving privilege of an employee, or owner no longer meets the minimum requirements, the operator shall prohibit that person from operating any tow truck.

(b) An operator shall, within three days of employing a new driver, advise the inspector in writing of the identity, including name, address and date of birth, of the new employee. The inspector shall notify the operator if the new employee does not meet the minimum license requirements.

NEW SECTION

WAC 204-91A-050 CERTIFICATION. After inspection of the towing business facilities and equipment, the inspector will certify one of the following:

(1) The towing operation of the applicant fully conforms to the requirements and qualification standards established by the Revised Code of Washington, the department, and the patrol; or

(2) The towing operation of the applicant does not conform to the requirements and qualification standards. The inspector shall state the reasons for failure to qualify in a separate report which shall be attached to the application/inspection form.

In the event the applicant fails to meet the established requirements for approval, the applicant may, after correcting all deficiencies, request a reinspection for certification.

NEW SECTION

WAC 204-91A-060 APPLICATION FOR LETTER OF APPOINTMENT. (1) An application for a letter of appointment will not be considered or approved until the applicant is qualified as a licensed and registered tow truck operator with at least one approved "A" or "B" class tow truck. Additional trucks are optional.

Note: An exception may be made if an operator desires a letter of appointment for class "C" tows only. In such situations, only a class "C" truck is required.

Upon request, the ESR shall advise the applicant of the contents of the department's regulations and of the standards established for the issuance of a letter of appointment.

(2) An application for a letter of appointment to provide towing service for the patrol shall be filed by the applicant with the local state patrol district office on a form prescribed by the patrol. In the case of a partnership, each partner shall apply on the form prescribed. In the case of a corporation, the patrol may require that each of the present and any subsequent officers, managers, and stockholders holding ten percent or more of the total issued and outstanding stock of the applicant corporation complete an application form.

(3) The district commander or designee shall complete tow zone portion of the form. He/she will enter "approved" or "disapproved" and will sign the form next to the zone designation.

(4) The application form will be assigned a docket number which shall be its permanent identification number for all matters relating to appointments, granted or denied, and any other correspondence with the ESR thereafter.

(5) The filing of an application for a letter of appointment does not in itself authorize the operator to provide towing services pursuant to this chapter until a letter of appointment has been issued by the ESR. However, nothing herein shall prohibit the patrol from calling the towing business upon the specific request of a person responsible for a vehicle or his agent.

NEW SECTION

WAC 204-91A-070 ISSUANCE OF A LETTER OF APPOINTMENT. (1) No towing operator shall be called to perform a towing service at the request of the patrol unless such operator has a letter of appointment as described in this chapter. No such letter of appointment will be issued unless all qualifications set out in this chapter have either been met by the applicant, or a waiver of those qualifications not met has been granted by the ESR.

(2) The ESR commander shall have the authority to issue letters of appointment upon request after receiving certification from the inspector and notice from the department that the requestor has been licensed as a registered tow truck operator.

If the patrol shall find the requestor does not or will not meet all requirements and is not qualified for a waiver of the requirements, then such request shall be denied. The patrol shall notify the requestor of its decision in writing, stating the reasons. If the request is approved, the ESR commander will issue the letter of appointment and forward it to the tow operator. The tow company will be admitted to the patrol's call list for the appropriate tow zone on the effective date of the letter.

If the district commander recommends denial of a request for a letter of appointment, the ESR commander shall notify the applicant and provide an opportunity for applicant to have a hearing as provided in chapter 34.05 RCW.

(3) A letter of appointment will be valid for one business, in a single tow zone, assigned by the district commander. Requests for additional letters of appointment in the same or another zone must be based on a complete and separate place of business capable of independent operation within the appropriate zone.

(4) A tow operator (or a district commander) may petition the ESR in writing for a waiver of one or more requirements. The ESR may grant a waiver if it finds that:

- (a) The towing service available to the patrol without the waiver is inadequate to meet the needs of the public;
- (b) The request is otherwise reasonable; and
- (c) The request has the district commander's approval.

In the event a qualified tow operator meeting all requirements and qualifications receives a letter of appointment in the same zone as a tow operator that had earlier been granted a waiver, the tow operator with a waiver will have the letter of appointment rescinded by the ESR and after notification will not be called for patrol-initiated tows.

(5) Every letter of appointment shall be issued in the name of the applicant and the holder thereof shall not allow any other person or business to use the letter of appointment.

(6) The letter of appointment will only be valid for the place of business named on the application and will not apply to any other place of business.

(7) A letter of appointment shall be valid until suspended, superseded, or revoked by the ESR.

(8) The holder of each letter of appointment must maintain at least one tow truck meeting the minimum class "A," "B," or "C" standards as listed in WAC 204-91A-170.

(9) All storage areas, primary and secondary, for each place of business must be in the tow zone assigned to that place of business.

NEW SECTION

WAC 204-91A-080 SUSPENSION OR REVOCATION OF LETTER OF APPOINTMENT. Upon

receiving evidence that any appointee has failed to comply or no longer complies with any requirement or provision of law or this chapter, the ESR may deny, suspend, or revoke the letter of appointment. The appointee shall be given notice of the action and an opportunity to be heard as prescribed in chapter 34.05 RCW.

The holder of a letter of appointment may voluntarily relinquish the letter. The ESR and the district commander will be advised in writing of this voluntary relinquishment. After receiving written notice, the district commander will cause the inspector to physically obtain the original letter of appointment and forward it to the ESR.

NEW SECTION

WAC 204-91A-090 HEARING PROCEDURE. The provisions of chapter 1-08 WAC shall govern the conduct of any hearing held pursuant to this chapter. The burden of proof in any hearing before the chief shall be on the applicant seeking a letter of appointment, or the person or agency seeking the suspension or revocation of a letter of appointment, or other action by the chief. The chief, after having heard and considered all pertinent evidence, or after having considered a record of a hearing conducted by an administrative law judge duly appointed pursuant to chapter 34.12 RCW, shall make written findings of facts and conclusions based on evidence presented. Oral proceedings shall be recorded on tape and such tape shall become part of the hearing record.

NEW SECTION

WAC 204-91A-100 APPEAL. Any person aggrieved by a decision of the chief denying, suspending, or revoking a letter of appointment may appeal such decision to the superior court under the provisions of chapter 34.05 RCW.

NEW SECTION

WAC 204-91A-110 COMPLAINTS. All law enforcement or local licensing agencies that receive complaints involving registered tow truck operators shall forward the complaints, along with supporting documents, including all results from the complaint investigation, to the department.

(1) Those complaints investigated by the patrol will be reviewed by the ESR commander before forwarding to the department.

(2) The patrol shall investigate all complaints involving deficiencies of equipment.

(3) A complete copy of all complaints investigated by the patrol will be kept on file by the ESR.

NEW SECTION

WAC 204-91A-120 BUSINESS OFFICE HOURS AND RECORDS. Business hours for purposes of inspection of records, place of business, and towing equipment shall be 8 a.m. to 5 p.m., excluding weekends and holidays.

(1) When an operator is not open for business and does not have personnel present at the place of business, the operator shall post a clearly visible telephone number at the business location for the purpose of advising the public how to make contact for the release of vehicles or personal property.

(2) The operator shall maintain personnel who can be contacted twenty-four hours a day to release impounded vehicles within a thirty-minute period of time.

(3) All billing invoices shall be consecutively numbered and shall contain the following information:

(a) Date of service and tow truck operator's name.

(b) Time of departure in response to the call.

(c) Time service completed.

(d) Class of tow truck.

(e) If towing call is for a Washington state patrol request, another police agency, a private impound, or the result of a private citizen request.

(f) All fees for service shall be itemized.

(g) The date and time the vehicle was released.

Note: Yard cards containing the above information may be used for internal control of vehicles by the operator until the vehicle is released, sold, or otherwise disposed of. Yard cards shall be supplemental to, and shall not replace the invoice required above.

A copy of the invoice shall be filed by invoice number at the business location and a copy of any voided invoice shall be retained in this same file. Another copy of the invoice shall be included with the transaction file items identified in RCW 46.55.150.

NEW SECTION

WAC 204-91A-130 PERSONAL PROPERTY HANDLING PROCEDURES. All personal belongings and contents in the vehicle and not permanently attached, shall be kept intact, and shall be returned to the vehicle's owner or agent during normal business hours upon request and presentation of a driver's license or other sufficient identification. Personal property not being held for evidence purposes by the impounding agency, shall be released to the vehicle's owner or agent without charge, upon demand, during normal business hours of 8:00 a.m. to 5:00 p.m. except for weekends and legal holidays. Release procedures will also follow guidelines as set forth in chapter 308-61 WAC and chapter 46.55 RCW.

(1) The items of personal property which the state patrol will not accept in response to RCW 46.55.090 include but are not limited to the following:

(a) Tire chains;

(b) Spare tire/wheels;

(c) Used auto parts and/or accessories;

(d) Seat covers;

(e) Fuel containers;

(f) Jacks, lug wrenches;

(g) Radios, stereos, and other items attached to the vehicle by bolts, screws, or some other manner which incorporates them to the vehicle shall remain with the vehicle;

(h) Refuse;

(i) Trash;

(j) Garbage;

- (k) Open alcohol containers;
- (l) Soiled or mildewed clothing, shoes, blankets, tarps, etc., having no actual value;
- (m) Miscellaneous unofficial papers and other items having no actual value.
- (2) Items which must be turned over to the patrol and inventoried include but are not limited to:
 - (a) Money;
 - (b) Wallets or purses;
 - (c) Bank or check books;
 - (d) Bank or credit cards;
 - (e) Official identification cards, operator's license, or passports;
 - (f) Jewelry items;
 - (g) Firearms and any type weapon;
 - (h) Contraband and/or controlled substances;
 - (i) Stocks, bonds, money orders, bank certificates, travelers checks, postage stamps, food stamps, etc.;
 - (j) Other items of obvious value.

NEW SECTION

WAC 204-91A-140 FEES. (1) All towing fees shall be based on a flat, hourly rate only and shall apply without regard for the hour of day, day of the week or whether the service was performed on a Saturday, Sunday, or holiday. The hourly rate for each class of truck shall be the only charge for services performed for initial tows and secondary tows performed during business hours. Charges for secondary tows performed during nonbusiness hours, on weekends or holidays, if different from the hourly rate, shall be negotiated and agreed upon with the vehicle owner/agent before the tow is made.

The hourly rate shall:

- (a) Be consistent with rates charged to the general public for similar noncontractual or nonrotational services.
- (b) Apply whether the call is occasioned by an accident, incident, disabled, or impound request.
- (c) Shall include all ancillary activities such as, but not limited to, removal of glass and debris from the roadway and any other area referred to as the "scene or incident," necessary winching, dolly service, drive line removal, installing chains on the tow truck, installation of portable lights, vehicle hookup for towing or transporting, tire replacement (on vehicle to be towed) and standby time.
- (d) Shall be considered to include one person (the driver) per truck. Any charges for additional labor and/or ancillary vehicles (trailers, pickups, etc.), for removing debris, cargo, etc., must have prior authorization from the legal or registered owner/agent, or a member of the patrol at the scene.
- (e) Be charged, when all services are performed within the operator's assigned tow zone, from the actual time the truck departs in response to a call until the towed-transported vehicle is dropped or the service work is completed, minus any down time.* The hourly rate shall be applied to the resulting net time and, after the first hour, shall be rounded to the nearest fifteen minutes. After the first hour, no more than one-quarter of the

hourly rate may be charged for each fifteen minutes of tow or service work performed.

* Down time includes coffee or meal breaks, personal errands by the operator, and/or any mechanical failure on the truck or equipment.

In situations where the vehicle is towed at the direction of the owner, agent, or other responsible person, to a location outside of the operator's assigned zone, the operator may also charge at the base rate for the time necessary to return to his/her assigned zone via the most direct route.

- (2) The basic storage fee shall:
 - (a) Be calculated on a twenty-four-hour basis and shall be charged to the nearest half day from the time the vehicle arrived at the secure storage area; and
 - (b) Be the same for all three and four-wheel vehicles less than twenty-five feet in length; and
 - (c) Charges for storage of vehicles or combinations exceeding twenty-five feet shall be computed by multiplying each twenty-five feet of vehicle length, or any portion thereof, by the basic storage fee;
 - (d) Storage fees for motorcycles shall be one-half the basic storage fee.

(3) After hours release fee. If an operator or employee is already present, for other reasons, at the storage facility after business hours when a customer arrives, the vehicle and/or property shall be released as if it were during business hours. No "after hours fee" may be assessed. If the operator or employee is called to the place of business specifically for the purpose of releasing the vehicle and/or property, an "after hours fee," equivalent to one and one-half days basic storage, may be assessed.

NEW SECTION

WAC 204-91A-150 TOWING PROCEDURE. Officers of the patrol shall obtain towing services to remove damaged or disabled vehicles from the highway or to remove vehicles from the highway with the following limitations:

- (1) If the vehicle does not constitute an obstruction to traffic and the owner/operator of the vehicle is present at the scene and appears competent to determine disposition of the vehicle, the owner/operator may, upon request, make his own arrangements for removal. This does not affect rotational positions.
- (2) If the vehicle is to be removed from the scene, the owner/operator of the vehicle may make a specific request for a particular tow operator. The request will be honored by the officer of the patrol if the requested tow operator is reasonably available and the request is otherwise reasonable in view of the circumstances at the scene. This does not affect rotational positions.
- (3) When the owner/operator of the vehicle makes no specific request, or when the owner/operator is incapacitated or is unavailable, the officer of the patrol shall, when practicable, obtain towing services by notifying the radio communications center and requesting tow service at that location.
- (4) The chief shall specify that tow services obtained by the patrol will be on a contractual, rotational, or other basis in specific geographical areas in the state.

(5) For the purposes of rotational or contractual tow requests, an approved tow truck shall be used only in the tow zone designated by the district commander. The patrol may, when tow service is not reasonably available within a given zone, obtain service from an adjacent zone.

(6) The patrol may adopt rules that will allow approved towing firms to establish their own central dispatch centers to dispatch tow trucks at the request of the patrol in selected geographical areas of the state.

(a) These dispatch centers will be the responsibility of those member towing firms that utilize this type of service.

(b) The patrol communications center will advise the towing dispatch center of the location, zone number, class of tow truck(s), and number of tow trucks needed at the location. The towing dispatch center will be responsible for dispatching the participating firm's tow trucks.

(c) Permanent records of all tow trucks dispatched at the request of the patrol will be maintained by the towing dispatch center for a period of three years.

NEW SECTION

WAC 204-91A-160 TOW ZONES. Each district commander shall outline geographical areas within his district to be designated as tow zones. The geographical tow zones for each patrol district shall be filed with the ESR. The boundaries established pursuant to this action may be modified as circumstances warrant. Considerations may include, but are not limited to, such factors as the frequency and severity of accidents and the frequency of DWI arrests in various areas throughout the district, the volume and pattern of traffic, the availability of tow services, and the accessibility of tow services to the areas of need within each district. Nothing herein shall prevent the patrol from amending tow zones from time to time as required by changing traffic and accident patterns and other such factors affecting the adequacy of towing service available to the patrol.

NEW SECTION

WAC 204-91A-170 MINIMUM TOW TRUCK EQUIPMENT STANDARDS. All tow/recovery trucks used by a registered tow operator for public or private impounds or in response to patrol requests shall meet the minimum standards as listed in this section. All equipment used in conjunction with each truck shall be commensurate with the basic boom rating or, if the truck is not equipped with booms, the manufacturer's gross vehicle weight rating. A waiver for one or more requirements may be granted as outlined in WAC 204-91A-070(4).

(1) **CLASS "A" TOW TRUCKS:** Trucks that are capable of towing and recovery of passenger cars, pickup trucks, small trailers, or equivalent vehicles. Class "A" trucks shall:

(a) Comply with legal lighting, equipment, and license requirements.

(b) Have department of licensing registration and truck numbers painted or permanently affixed to both sides of truck.

(c) Have a revolving/intermittent red light with three hundred sixty degree visibility. May also be equipped with flashing amber and/or white lights which may be used in conjunction with the red lamp(s).

(d) Have a broom, minimum twelve inches wide, handle four feet long.

(e) Have a scoop type shovel, minimum seven inches wide, overall length minimum three feet long.

(f) Be maintained in a reasonably clean condition.

(g) Have all equipment commensurate with total ton rating of booms.

(h) Have firm name, city of address, and phone number permanently affixed to both sides of the vehicle.

(i) Have two pinch bars or equivalent devices; one tapered, one flattened; one three feet and one four feet, with a minimum diameter of three-quarters of an inch.

(j) Have a two-way radio or mobile telephone system capable of communicating with a working base station. A citizen band radio does not suffice. A mobile telephone system is acceptable if:

(i) The equipment is of a recognized and established manufacture and is properly installed.

(ii) The equipment is in proper working order and functions correctly throughout the assigned tow areas.

(iii) The equipment does not utilize the truck horn or a siren or other sound device to signal incoming calls.

(iv) The equipment is used in a correct and lawful manner.

(k) Have a twenty BC-rated fire extinguisher or equivalent.

(l) Have portable tail, stop, and turn signal lights for vehicle being towed.

(m) Have a minimum of two snatch blocks.

(n) Have a tow sling or other comparable device made of material and used in such manner so as to protect vehicles being towed or recovered.

(o) Have a portable dolly or its equivalent for hauling vehicles that are not otherwise towable.

(p) Have ten thousand pounds minimum manufacturer's gross vehicle weight rating or equivalent.

(q) Have dual tires on the rear axle or duplex type tires, referred to as "super single" with load rating that is comparable to dual tire rating.

(r) Have a minimum of one hundred feet of three-eighths inch continuous length cable or its equivalent, measured from the point of attachment to drum and hook, in safe working condition on each drum.

(i) Each cable shall be capable of being fully extended from and fully wound onto its drum.

(ii) All cables and/or wire ropes shall be in good working order and shall have:

(A) No more than six randomly distributed broken wires in one rope lay, or more than three broken wires in one strand in one rope lay.

(B) No evidence of heat damage from any cause.

(C) End attachments that are not cracked, deformed, worn, or loosened.

(iii) Cable end connections shall be swaged or, if clamped, shall have a minimum of three clamps spaced a minimum of six rope diameters apart and attached with the base or saddle of the clamp against the longer or "live" end of the cable. The "U" bolt will be placed over

the short or "dead" end of the rope and will be of the proper size for the cable being clamped.

(s) Have a minimum six ton boom rating with single or dual booms. Dual winches to control a minimum of two service drums.

(2) CLASS "B" TOW TRUCKS: Trucks that are capable of towing and/or recovery of medium size trucks, trailers, motor homes, or equivalent vehicles. Class "B" tow trucks shall meet the requirements of subsection (1)(a) through (o) of this section, and in addition, shall have:

(a) Seventeen thousand pounds minimum manufacturer's gross vehicle weight rating or equivalent.

(b) Minimum ten ton boom rating, single or dual booms, with two independent winches and drums.

(c) A minimum of one hundred fifty feet of seven-sixteenths inch cable on each drum, measured from points of attachment. All cable shall be in safe operating condition as described for class "A" trucks.

(d) Minimum of four standard release tools (caging stud assemblies).

(3) CLASS "C" TOW TRUCKS: Trucks that are capable of towing and/or recovery of large trucks, trailers, buses, motor homes, or similar vehicles. Class "C" tow trucks shall meet the requirements of subsection (1)(a) through (n) of this section and in addition, shall have:

(a) Tandem rear axle truck chassis (both drive axles).

(b) Twenty-five ton minimum single or dual boom and winch rating.

(c) One hundred fifty feet of minimum nine-sixteenths inch cable on each drum measured from points of attachment. All cable shall be in safe operating condition as described in class "A."

(d) Air brakes and system capable of supplying air to towed vehicle.

(e) Minimum of four standard release tools (caging stud assemblies).

(f) Forty thousand pounds minimum manufacturer's gross vehicle weight rating or equivalent.

(4) CLASS "D" TOW TRUCKS: Trucks that are equipped for and primarily used as "wheel lift" trucks. Class "D" must meet the requirement of subsection (1)(a) through (r) of this section, and in addition, shall have:

(a) A minimum three thousand pound manufacturer's lift rated and minimum seven thousand pound tow rated wheel lift assembly.

(b) One winch and drum with one hundred feet of three-eighths inch cable meeting class "A" requirements.

Note: One snatch block is sufficient.

(5) CLASS "E" TOW TRUCKS: Trucks that are primarily designed and intended to transport other vehicles by loading the vehicle entirely onto the truck. These trucks may be of a flatbed, "slide back" or "tilt bed," design or may be a "rail" type truck. Class "E" trucks must meet the requirements of subsection (1)(a) through (l) of this section, and in addition, shall have:

(a) Two securing devices with a minimum breaking strength of fifteen thousand pounds. The devices may be chain, cable, nylon strap, or steel strap. The tie downs shall be passed over the axle or frame member (one in

front and one in rear) of the transported vehicle. Both ends shall be attached to the truck bed or rail in a manner that will prevent movement of the transported vehicle. Factory style "T" hook tie-downs may also be used (front and rear).

(b) One snatch block.

(c) Dual tires on rear axles.

Note: All tires must be of sufficient size to meet the requirements of RCW 46.44.042 under all loading conditions.

(d) If used in a towing mode (as opposed to carrying), a sling, tow bar, and/or wheel lift assembly as appropriate for gross vehicle weight of the towed vehicle.

(e) Additional minimum requirements include:

A. Gross vehicle weight rating	14,500 lbs
B. Purchased tonnage	14,500 lbs
C. Winch rating	4 ton
D. Cable	50', 3/8 6x19 Hemp Center, I.P.S. work limit 3,500 lbs 5-1 safe working load
E. Cable hook connections	3 ton
F. Car carrier (bed)	17'
G. Body load rating (bed)	4 ton
H. Tow bar load rating	2,000 lbs

Note: Trucks of class "E" configuration that were inspected and approved for use prior to the adoption of these specifications and that do not meet them may continue to be used for patrol calls until January 1, 1992: PROVIDED, That they do continue to meet the original specifications required and are otherwise in safe operating condition.

(6) CLASS "S" TOW/RECOVERY TRUCKS : Tow/recovery trucks that cannot meet the requirements of class "A," "B," "C," "D," or "E" and are not eligible for appropriate waiver as outlined in WAC 204-91A-070(4), may be approved as class "S" (special).

To have a truck designated as class "S" the tow operator must submit a request for approval through the district commander to the ESR. The written request shall indicate why the truck is needed, what it will be used for, its size, purchased tonnage (if appropriate), capability, and the equipment carried or used with the truck.

If the district commander approves the request, he/she will forward the approved written request with recommendations for equipment and/or operation instructions or limitations to the ESR for review and final approval. If approval is granted, the equipment shall be inspected as outlined in WAC 204-91A-040 with reports forwarded in the normal manner.

Note: If the provisions of this section require a change in classification for a previously approved tow truck, such change may be made upon the next annual reinspection. In any case, all tow trucks shall be correctly classified within one year of adoption of these rules.

NEW SECTION

WAC 204-91A-180 VEHICLE TOWING/OPERATOR QUALIFICATIONS, RESTRICTIONS, AND REQUIREMENTS. In addition to the requirements contained in WAC 204-91A-170, tow truck operators appointed pursuant to this chapter shall conform to all laws and administrative rules pertaining to the tow industry and shall observe the following practices and procedures:

(1) When called by the patrol, the tow truck operator will dispatch a tow truck, from within the assigned zone, within five minutes during normal business hours.

(2) Tow trucks dispatched at the request of the patrol after normal business hours will be on the move within the assigned zone within fifteen minutes after receiving the call.

(3) The tow truck that is dispatched will arrive at the stated location within a reasonable time considering distance, traffic, and weather conditions.

(4) If for any reason a tow operator is unable to dispatch a tow truck within the stated time or if the dispatched truck will be delayed for any reason, the operator shall so advise the patrol stating the reason and estimated time of arrival. In the event the tow truck fails to arrive at the scene within a reasonable time, the patrol will contact another tow operator to respond to the scene and will cancel the original tow.

(5) A tow operator on rotation who is unable to dispatch or arrive within the times stated in subsections (1), (2), (3), and (4) of this section will forfeit his turn and be placed at the bottom of the rotation list as if he had responded.

(6) Consistent refusal or failure of the appointee to respond to calls from the patrol for towing services may result in the suspension or revocation of the tow operator's letter of appointment.

(7) The tow operator shall advise the appropriate patrol office when the tow company is temporarily unavailable to respond to rotational calls with a class "A," "B," or "C" tow truck. Unavailability may occur due to conditions such as, but not limited to, other tow truck commitments, tow truck disabled and/or under repair, unforeseen driver shortage due to illness, etc. The period of unavailability may last less than an hour or much longer. The tow operator will give the reason for unavailability and approximately when the company will be available to respond to calls.

The tow company will be removed from the rotational list and will not be called until the operator advises the patrol that the company is once again able to respond to calls with an "A," "B," or "C" class truck. In all such cases, the tow company will resume its normal position on the rotational list without regard to any missed calls or its position prior to being unavailable.

(8) The tow operator will advise the patrol whenever a private call is received for a tow with circumstances that indicate that the tow is for a vehicle which has been involved in an accident, incident, or equipment breakdown on the public roadway. The tow operator also will advise the patrol of all private calls to motor vehicle accidents on private property resulting in bodily injury or death.

(9) The tow operator will notify the patrol before moving any vehicle involved in an accident on a public highway under the jurisdiction of the patrol as defined in the motor vehicle code, Title 46 RCW, or where it appears that the driver of the vehicle to be moved is under the influence of intoxicants or drugs, or is otherwise incapacitated.

(10) When the patrol is in charge of an accident scene or other such incident, a tow operator shall not respond

to such scene unless his services have been specifically requested by the patrol, the driver/owner, or his agent.

(11) The tow operator shall be available, or will ensure that specific employees are available, twenty-four hours a day for the purpose of receiving calls or arranging for the release of vehicles. Business hours will be posted conspicuously at the operator's place of business so they can be seen during business hours and nonbusiness hours. A copy will also be sent to the ESR and patrol district commander of the district in which the tow operator does business. Changes of business hours will be sent to the department, the ESR, and the patrol district commander ten days before their effective date.

(12) The tow operator will notify the appropriate patrol office of the release of stored vehicles within five working days after the release of such vehicle. Notification to the patrol will be made in such a manner as prescribed by the ESR commander.

(13) The operator shall post a current copy of tow and storage rates, on a form approved by the department and the patrol, in the following locations:

(a) At the entrance to the place of business, in a conspicuous location, plainly visible and readable by members of the public, whether the business is open or closed. If, in order to meet this requirement, the rate sheets must be placed in a location, exposed to the elements, they shall be protected so as to remain legible.

(b) Inside the business location, where business is commonly transacted. The rate sheets shall be posted in such manner as to be clearly and plainly visible and readable at all times by customers of the business.

(c) A copy of the current rates will be sent to the department, the ESR, and the patrol district commander of the district in which the tow operator has applied for a letter of appointment. Notice of any change(s) in service rates will be forwarded to the department, the ESR, and the district commander of the area ten days before the effective date of the changes. Charges made for towing services arising from calls initiated by the patrol shall be consistent with current posted towing rates and shall be based only upon services listed on the prescribed form.

(d) In the event that an operator has only a class "B" truck and utilizes it for class "A" and "B" type tows, the operator shall file a rate sheet that specifies the rates charged for the different types of tows.

Whenever any operator utilizes a larger truck than the towed vehicle warrants, the operator shall charge fees based on the size of the towed vehicle not the size of the truck used.

EXAMPLE: A class "C" truck is used, at the operator's discretion, to tow a class "B" size vehicle. The fees charged shall be those for a class "B" truck NOT a class "C."

(14) Charges made for towing services arising from calls initiated by the patrol shall be consistent with charges made for similar services performed at the request of the general public.

(15) Unless other arrangements are made with commissioned patrol personnel at the scene, all impounded vehicles shall be taken to the tow operators nearest approved storage location.

(16) The tow operator will maintain, for three years, records on towed and released vehicles which were towed at the request of the patrol. This record will include, but not be limited to:

(a) An itemized receipt of all charges for the services provided.

(b) An inventory sheet or copy thereof made out by the trooper at the scene of the tow and signed by the operator.

(c) All other records required by the department.

Such records will be available for inspection by the patrol during normal business hours at the operator's place of business.

(17) The tow operator will sign an inventory sheet made out by the patrol officer at the scene.

(18) Tow operators will obtain and maintain current registration as a licensed tow truck operator pursuant to RCW 46.55.020.

(19) Tow operators shall perform towing tasks competently. The standard of competence shall be that quality of work which is accepted as efficient and effective within the towing industry.

(20) No tow operator, employee, or agent shall misappropriate, wrongfully convert to his/her own use, or abuse property belonging to another and entrusted to his/her care or storage.

(21) Tow truck operators will use emergency lights to warn other motorists only when at the scene of accidents, disabled vehicles, and/or recoveries. Such lighting shall not be used when traveling to or from the scene.

(22) Tow truck operators shall be responsible for cleaning accident/incident scenes of all vehicle glass and debris.

(23) Specific operating restrictions and/or requirements, by truck class, are as follows:

(a) The standard air brake release tools (caging stud assemblies) required to be carried in the class "B" and "C" trucks shall be used, whenever necessary, to preserve potential evidence involving brake equipment or adjustment settings. When an operator is attempting to move a vehicle equipped with locked spring parking brakes that cannot be released by external air supply, the caging assemblies shall be used to release the brake tension. Under no circumstances shall the towed vehicle's brake assemblies or adjustments be moved or disturbed in any way that will prevent later determination of the preaccident or incident settings.

(b) Class "B" trucks in excess of twenty-three thousand pounds gross vehicle weight rating need not carry dollies when towing or recovering heavy vehicles.

(c) Class "D," "E," and "S" trucks shall not be used to respond to initial calls unless specifically authorized by patrol personnel at the scene or by local written policy approved by the district commander.

(d) Class "E" trucks shall:

(i) When used for multiple vehicle towing/recovery (one on bed, one in tow), all invoice charges shall be evenly divided between the vehicles so transported;

(ii) Not be operated in excess of either gross vehicle weight rating or purchased tonnage weight limits;

(iii) Be required to carry its portable lights only when used in a towing mode.

(24) Whenever a "special event or overflow" storage lot is approved by the department, the patrol and appropriate city/county jurisdictions, the operator shall maintain personnel at the lot twenty-four hours per day for security and vehicle and/or personal property release. If necessary, reimbursement for such labor shall be part of the contract for the "special event" if appropriate or by amended storage rates with a waiver of the ten-day rate change notice requirement approved by the department and the patrol.

At the conclusion of a "special event or overflow" situation, all vehicles not reclaimed by the owner shall be towed to the operator's regular storage facility and processed in the normal fashion. No additional fee shall be charged for towing the vehicle from the overflow lot to the regular facility.

(25) All work performed by the operator and/or employee shall be in the most professional and expeditious manner. All invoices and other required forms shall be completed accurately and promptly.

(26) Tow operators shall, when required by the patrol or the department, cause to be displayed on each approved truck, decals indicating truck class, patrol district, and/or assigned tow zone.

WSR 89-14-016

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Order 2010—Filed June 23, 1989]

I, C. Alan Pettibone, director of the Washington State Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to restrictions on the use of pesticides in Benton, Franklin, and Walla Walla counties in chapter 16-232 WAC.

I, C. Alan Pettibone, 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 in response to repeated herbicide drift problems in the lower Yakima Valley and Tri-Cities area, emergency measures are necessary to continue restricting the application of pesticides in Benton County and portions of Franklin and Walla Walla counties until permanent rules can be adopted. This action will continue emergency rules now in effect until a final decision is made after the hearing held on June 27.

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

This rule is promulgated pursuant to chapters 17.21 and 15.58 RCW and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 23, 1989.

By C. Alan Pettibone
Director

NEW SECTION

WAC 16-232-440 AREA UNDER ORDER. The area under order shall include:

(1) All lands lying within the boundaries of Benton County.

(2) Portions of Franklin and Walla Walla counties as follows:

Beginning at the Benton-Franklin County line in the vicinity of the northwest corner of Section 1, T10N, R28E; thence east approximately thirteen miles along section lines and a portion of Sagemore Road to the northeast corner of Section 1, T10N, R30E; thence south seven miles to the southeast corner of Section 1, T9N, R30E; thence east four miles along section lines and a portion of the Pasco-Kahlotus Road to the northeast corner of Section 10, T9N, R31E; thence approximately fourteen miles south across the Franklin-Walla Walla County line to the Columbia River; thence northwesterly along the Columbia River to the point of beginning.

(3) Within the area under order described in subsection (1) and (2) above are certain lands designated as Sub-area A which have the following descriptions:

(a) All lands lying south of a line beginning at the Yakima-Benton County line and the southwest corner of Section 19, T8N, R24E; thence east one mile along section lines to the southeast corner of Section 19, T8N, R24E; thence north one mile along section lines to the northeast corner of Section 19, T8N, R24E; thence east seven miles along section lines to the southeast corner of Section 17, T8N, R25E; thence north three miles along section lines to the northeast corner of Section 5, T8N, R25E; thence east two miles along section lines to the southeast corner of Section 34, T9N, R25E; thence north one mile along the section lines to the northeast corner of Section 34, T9N, R25E; thence east two miles along section lines to the southeast corner of Section 25, T9N, R25E; thence north one mile along section lines to the northeast corner of Section 25, T9N, R25E; thence east six miles along section lines to the southeast corner of Section 24, T9N, R26E; thence south two miles along section lines to the southwest corner of Section 31, T9N, R27E; thence east five and one-half miles more or less along section lines to the K.I.D. Canal; thence southeasterly along the K.I.D. Canal to its confluence with Columbia River.

(b) All lands lying within a line beginning at the southwest corner of Section 18, T13N, R24E; thence east three miles along section lines the southeast corner of Section 16, T13N, R24E; thence south one mile along section lines to the southwest corner of Section 22, T13N, R24E; thence east one-half mile to the Atomic Energy Commission west boundary line; thence easterly and southerly along the Atomic Energy Commission boundary line to the Yakima River; thence southerly along the Yakima River to the south boundary of Section 31, T10N, R27E; thence west eighteen and one-half miles more or less along section lines to the Yakima-

Benton County line, thence north along Yakima-Benton County line to the point of origin.

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

NEW SECTION

WAC 16-232-450 RESTRICTED USE PESTICIDES. For purposes of WAC 16-232-440 through WAC 16-232-490, all pesticides are declared to be restricted use pesticides, except those labeled or used only for the following sites or functions:

- (1) Swimming pools and fountains
- (2) Disinfectants
- (3) Cooling tower or industrial system biocides
- (4) Pets or livestock
- (5) Lawns or home gardens (does not include golf courses, turf farms and public parks)
- (6) Use within or around buildings or similar structures (does not include irrigation canals)
- (7) Wood or lumber treatment
- (8) Baits or repellants registered solely for vertebrate pest control
- (9) Seed treatments
- (10) Enclosed food processing systems
- (11) Air conditioners, humidifiers, and heating systems

NEW SECTION

WAC 16-232-460 PERMITS. (1) Application by air of restricted use pesticides as defined in WAC 16-232-450 is prohibited in Sub-area A designated in WAC 16-232-440(3): PROVIDED, That the department may issue written permits for designated aerial applications.

(2) The department may make on-site monitoring of the application by a department representative a condition of any permit. A representative of the department may revoke any such permit at any time, if the representative deems the situation at the application site unsuitable.

(3) No permit shall be issued pursuant to this rule to apply dicamba or phenoxy hormone-type herbicides, unless that permit is consistent with existing department regulations.

(4) Application of chlorsulfuron (such as: Glean, Telar) or metsulfuron methyl (such as: Finesse, Escort) to fallow land or to land during the time between harvest and emergence of the subsequent cereal grain crop above the furrows is prohibited.

NEW SECTION

WAC 16-232-470 RECORDKEEPING. (1) No portion of this rule shall relieve any commercial applicator, public operator, private-commercial applicator, or demonstration and research applicator from recordkeeping requirements of WAC 16-228-190.

(2) Persons who apply restricted use pesticides as defined in WAC 16-232-450 shall keep records for each application within the area defined in WAC 16-232-440, which shall include the following information:

(a) Applicator's name, address and name of the individual making the application;

(b) Address or location of the land where the pesticide was applied, specifying township, range, and section: **PROVIDED**, That right-of-way application records may omit township, range and section.

(c) Year, month, day, and time the pesticide was applied;

(d) Trade name and/or common name of the pesticide applied, and/or EPA registration number for that product;

(e) Direction and estimated velocity of the wind and temperature at the time the pesticide was applied;

(f) Amount and concentration (pounds or gallons per acre and percentage of active ingredient and/or concentration per one hundred gallons) of the pesticide used;

(g) Specific crop or site to which the pesticide was applied.

(h) Acreage or area treated

(3) If an application of a restricted use pesticide as defined in WAC 16-232-450 is performed by a licensed commercial pesticide applicator within the area defined in WAC 16-232-440, the person in control of the treated land shall keep records which shall include the following information:

(a) Address or location of the land where the pesticide was applied, specifying township, range, and section: **PROVIDED**, That right-of-way application notices may omit township, range and section;

(b) Year, month, day, and time the pesticide was applied;

(c) Name of the commercial applicator.

(d) Trade name and/or common name and/or EPA registration number of the pesticide applied.

(4) All records required by this rule shall be completed and available to the department the same day the pesticide was applied.

(5) All records required by this rule shall be kept for a period of three years from the date of application of the pesticide to which such records refer. The department shall, upon request in writing, be furnished with a copy of such records forthwith by the person required to keep the records: **PROVIDED**, That upon request commercial applicators and public operators shall submit to the department the records required in subsection (2) of this section, and any additional information required in WAC 16-228-190.

NEW SECTION

WAC 16-232-480 REQUIRED RECORDS SUBMISSION. (1) Application records as defined in WAC 16-232-470 for all aerial applications of restricted use pesticides made in the area under order as defined in WAC 16-232-440 shall be submitted to the Ag Chemical Branch, 2015 So. 1st Street, Yakima, WA 98903, within seven days after the date of application.

(2) Application records as defined in WAC 16-232-470 for all ground applications (including application by means of irrigation systems) of desiccants, defoliant and

herbicides, including use of soil fumigants for weed or weed seed control, shall be submitted to the Ag Chemical Branch, 2015 So. 1st Street, Yakima, WA 98903, within seven days after the date of application.

NEW SECTION

WAC 16-232-490 OTHER RULES. Provisions of WAC 16-232-440 through WAC 16-232-490 shall take precedence over all existing, less restrictive rules of the department affecting the application of pesticides in Benton, Franklin or Walla Walla Counties. No provision of WAC 16-232-440 through WAC 16-232-490 shall be construed as relieving any requirement of existing rules except those in direct conflict.

WSR 89-14-017

NOTICE OF PUBLIC MEETINGS CONVENTION AND TRADE CENTER

[Memorandum—June 21, 1989]

This is to notify you of changes in the regular meeting schedule of the board of directors of the Convention Center. The next regular meeting has been rescheduled to July 12 from July 5. Also, the September regular meeting has been rescheduled to September 13 from September 6. Both meetings will take place at 3:00 p.m. at the Convention Center, 800 Convention Place, Room 601, Seattle 98101.

WSR 89-14-018

ADOPTED RULES DEPARTMENT OF WILDLIFE

[Order 401—Filed June 26, 1989]

I, Curt Smitch, director of the Washington Department of Wildlife, do promulgate and adopt at Spokane, Washington, the annexed rules relating to Field identification of wildlife—Evidence of sex—Definitions, amending WAC 232-12-267.

This action is taken pursuant to Notice No. WSR 89-06-079 filed with the code reviser on March 1, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 77.12.030, 77.12.105 and 77.16.095 and is intended to administratively implement that statute.

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.
APPROVED AND ADOPTED May 12, 1989.

By Curt Smitch
Director

AMENDATORY SECTION (Amending Order 165, filed 6/1/81)**WAC 232-12-267 FIELD IDENTIFICATION OF WILDLIFE— EVIDENCE OF SEX — DEFINITIONS.** ~~((It is unlawful to possess wildlife in the field or to transport wildlife unless:))~~

(1) ~~((Feathered))~~ It is unlawful to possess or transport game birds unless the feathered heads are left attached to ((all game birds,)) the carcass, except falconry caught birds, until the carcass is processed and/or stored for consumption.

(2) ~~((Heads of))~~ It is unlawful to possess or transport big game animals ((accompany)) unless evidence of the sex of the animal remains with the carcass until the carcass is processed and/or stored for consumption.

(a) In goat, sheep, or moose hunting areas or in deer or elk hunting areas with antler restrictions, the head with antlers or horns attached must accompany the carcass of the animal as evidence of sex.

(b) In deer or elk hunting areas with no antler restrictions, the head with antlers attached or penis or testes or udder must be naturally attached to at least one quarter of the carcass or the animal as evidence of sex.

(c) For the purpose of this rule, "stored for consumption" means at the final point of storage prior to consumption of the meat.

WSR 89-14-019**PROPOSED RULES****DEPARTMENT OF TRANSPORTATION**

[Filed June 26, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Transportation intends to adopt, amend, or repeal rules concerning:

- Amd WAC 468-06-030 Exempted records.
 Amd WAC 468-06-040 Description of central and field organization of the Washington State Department of Transportation.
 Amd WAC 468-06-050 Public records officer;

that the agency will at 10:00 a.m., Monday, August 14, 1989, in the Boardroom, 1D2, Transportation Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 42.17.250 through 42.17.340.

The specific statute these rules are intended to implement is RCW 42.17.250 through 42.17.340.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 1, 1989.

Dated: June 26, 1989

By: Ed W. Ferguson
Deputy Secretary**STATEMENT OF PURPOSE**

Title: Revision to chapter 468-06 WAC, Public access to information.

Description of Purpose: Amending WAC 468-06-030 Exempted records, removed three exempted records listed in the WAC but not applicable to the department. Included two more exempted records which were added to RCW 42.17.310 Public records, since this WAC was last published. The lead paragraph of this section changed to refer interested persons to RCW 42.17.310 for further exemptions; amending WAC 468-06-040 Description of central and field organization of the Washington State Department of Transportation, paragraph (2)(a), added economic development affairs, a new office, to report to the secretary. Removed Public Affairs Office from reporting to the secretary. Changed name of legislative liaison to legislative and strategic management relations, paragraph (2)(b), Public Affairs Office now reports to the deputy secretary. Added Audit Office which was formerly under the Finance and Budget Management Division, but now reports directly to the deputy secretary. Changed name of Highway Division to "Highways" and Management Service Division to "Finance and Budget Management" and paragraph (2)(c), changed location of District 1 from Seattle to Bellevue; and amending WAC 468-06-050 Public records officer, change forms and records manager to records manager.

Statutory Authority: Chapter 42.17 RCW, Public records.

Specific Statute Rule is Intended to Implement: Chapter 42.17 RCW, Public records.

Summary of Rule: Removed three exempted records not applicable to the department and included two more which are applicable. The description of the central and field organization was changed to show new offices, reporting officials, and the new location of District 1. Changed title of forms and records manager to records manager.

Reasons Supporting Proposed Action: WAC 468-06-030, removed three exempted records now in the WAC and RCW 42.17.310 but are not applicable to the department. (1) Personnel information in any file maintained for students in public schools, patients, or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees. (2) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosures of the information to other persons would violate the taxpayer's right to privacy, or would result in unfair competitive disadvantage to such taxpayer. (3) Railroad company contracts filed with the Utilities and Transportation Commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter. Included two more exempt records to this section which were added to RCW 42.17.310 since this WAC was last published. (1) Except as provided under *Section 2 of this 1987 act (section 2, chapter 404, Laws of 1987), all applications for public employment, including the names of applicants, resumes, and other related material submitted with respect to an applicant. (2) The

residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees, or volunteers; WAC 468-06-040, Economic development affairs, a new office was created since this WAC was last published and reports to the secretary. The reporting official of the Public Affairs Office was changed from the secretary to the deputy secretary. The name of legislative liaison was changed to legislative and strategic management relations. Audit, formerly under Finance and Budget Management Division, now reports directly to the deputy secretary. The name Highway was changed to "Highways" and Management Services was changed to "Finance and Budget Management." The location of District 1 was changed from Seattle to Bellevue; and WAC 468-06-050, changed title of forms and records manager to records manager.

Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Mr. Hans Cregg, Acting Manager, Administrative Services Office, Finance and Budget Management Division, Department of Transportation, Room 3A26, Transportation Building, Olympia, Washington 98504, phone 753-7361, is responsible for the drafting and implementation of this rule. The Public Disclosure Commission and the Washington State Department of Transportation are responsible for the enforcement of this rule.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Finance and Budget Management Division, Administrative Services Office, Department of Transportation, governmental.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or State Court Action: No.

Small Business Economic Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order 97, filed 11/18/85)

WAC 468-06-030 EXEMPTED RECORDS. ~~((In accordance with RCW 42.17.310, the following personal and other records shall be exempt from public inspection and copying:~~

~~(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers or parolees.~~

~~((2)) The following records shall be exempt from public inspection and copying. For further exemptions, chapter 42.17 RCW and in particular RCW 42.17.310 should be consulted.~~

~~(1) Personal information in files maintained for employees, appointees or elected officials of any public agency to the extent that disclosure would violate their right to privacy.~~

~~((3) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.~~

~~((4)) (2) Specific intelligence information and specific investigative files compiled by investigative, law enforcement and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.~~

~~((5)) (3) Information revealing the identity of persons who file complaints with investigative, law enforcement or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property: PROVIDED, That if at the time the complaint is filed the complainant indicates a~~

desire for disclosure or nondisclosure, such desire shall govern: PROVIDED, FURTHER, That all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

~~((6)) (4) Test questions, scoring keys, and other examination data used to administer a license, employment or academic examination.~~

~~((7)) (5) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired, or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.~~

~~((8)) (6) Valuable formulae, designs, drawings and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.~~

~~((9)) (7) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies reformulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.~~

~~((10)) (8) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.~~

~~((11)) (9) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.~~

~~((12)) (10) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.~~

~~((13)) (11) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070.~~

~~((14) Railroad company contracts filed with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.) (12) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.~~

~~(13) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.~~

The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interest, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

AMENDATORY SECTION (Amending Order 97, filed 11/18/85)

WAC 468-06-040 DESCRIPTION OF CENTRAL AND FIELD ORGANIZATION OF THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION. (1) The department of transportation is a statutorily created agency of the state of Washington. The headquarters office of the department of transportation is located in the Transportation Building, Olympia, WA 98504.

(2) The department of transportation is headed by a secretary who is the executive head of the department and is appointed by the transportation commission.

(a) Serving directly under the secretary are the deputy secretary, legislative ~~((liaison))~~ and strategic management relations, and ~~((public))~~ economic development affairs ~~((office))~~. There are also assistant attorney generals assigned to the department who provide legal services in department matters.

(b) The deputy secretary has jurisdiction over ~~((the))~~ state aid ~~((office))~~, personnel ~~((office))~~, audit, public affairs, and the following divisions located in Olympia: Highways; planning, research and public transportation; marine transportation; aeronautics; and finance and budget management ~~((services))~~.

(c) The department functions are also carried out by six districts which are headed by a district administrator and report directly to the deputy secretary. The district locations are: ~~((Seattle))~~ Bellevue,

Wenatchee, Tumwater, Vancouver, Yakima, and Spokane. The districts have various field offices which are headed by a supervisor.

(3) A more detailed description of the department of transportation is contained in the department organization handbook and is available from the public records officer in the headquarters building.

AMENDATORY SECTION (Amending Order 62, filed 5/19/81)

WAC 468-06-050 PUBLIC RECORDS OFFICER. The department's public records shall be in the charge of the manager, administrative services, who shall be the public records officer for the department. In the absence of the manager, administrative services, the ~~((forms and))~~ records manager shall serve as the public records officer. The persons so designated shall be located in the transportation building, Olympia, Washington. The public records officer shall be responsible for the following: The implementation of the department's rules and regulations regarding release of public records, coordinating the staff of the department in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

WSR 89-14-020

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 2011—Filed June 26, 1989]

I, C. Alan Pettibone, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to custom farm slaughtering, chapter 16-22 WAC.

This action is taken pursuant to Notice No. WSR 89-10-065 filed with the code reviser on May 3, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 16.49A RCW and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 26, 1989.

By Michael V. Schwisow
Deputy Director

AMENDATORY SECTION (Amending Order 1396, filed 3/24/75, effective 9/3/75)

WAC 16-22-040 CUSTOM FARM SLAUGHTERING ESTABLISHMENT—SPECIAL SLAUGHTER CONDITIONS. (1) ~~((Except in the case of an animal injured to such extent that immediate slaughter at the place of injury is necessary for humane reasons, a licensee may slaughter an animal only on the premises of the present or first preceding owner of such animal.))~~ A custom farm slaughterer may slaughter an animal only on the premises of the present or first preceding owner of such animal except as follows:

(a) An animal injured to such extent that immediate slaughter at the place of injury is necessary for humane reasons.

(b) If a federally inspected slaughter facility or custom slaughtering establishment is not available locally

(approximately thirty miles by road), animals purchased for custom slaughter at any 4-H and FFA market stock sales may be slaughtered by a custom farm slaughterer on any premise, except the point of sale, when such premise or premises are approved in advance by the local health district/department and the Washington department of agriculture.

(2) A mobile custom slaughtering establishment licensee may slaughter his own animal for his own consumption on any premises, farm, or ranch owned, rented or in any way controlled by him. No other animal may be slaughtered by the licensee on the premises, farm or ranch owned, rented or in any way controlled by him or by members of his immediate family. Licensees under these regulations that are "bona fide farmers" may slaughter more than one animal provided the animals are in his possession more than ~~((60))~~ sixty days.

(3) Whenever a licensee believes that a meat food animal or meat food product is unwholesome, as defined in these regulations, he shall require an examination and declaration of wholesomeness by a licensed veterinarian before proceeding with slaughter or with processing of the carcass.

WSR 89-14-021

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 89-50—Filed June 26, 1989]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, Joseph R. Blum, 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 there has been a long-standing annual shad fishery in this area because its physical characteristics allow shad to be harvested without an incidental salmonid catch. Shad are available and a harvest opportunity should be provided. There is inadequate time to promulgate permanent regulations.

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

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 26, 1989.

By J. McKillip
for Joseph R. Blum
Director

NEW SECTION

WAC 220-33-03000B COMMERCIAL SHAD—COLUMBIA RIVER. Notwithstanding the provisions of WAC 220-33-030, it is unlawful to take, fish for, or possess shad for commercial purposes except as provided for in this section:

- (1) Camas - Washougal Reef Area Open 6:00 p.m. June 26 through 11:59 p.m. June 30, 1989
- (2) Gear - Gill net, single-wall, unslackened, floater net, 5-3/8 to 6-1/4 inches, 30 lb. breaking strength.
- (3) Shad only may be kept and sold. All salmonids, and sturgeon must be released and returned to the water immediately.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-03000A COMMERCIAL SHAD—COLUMBIA RIVER. (89-37)

WSR 89-14-022
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—June 21, 1989]

At the direction of the president of the board of regents, and with the concurrence of a majority of the members of the board and Dr. William P. Gerberding, President of the University, the meeting of the board of regents scheduled for August 18, 1989, is cancelled.

WSR 89-14-023
NOTICE OF PUBLIC MEETINGS
CENTRAL WASHINGTON UNIVERSITY
[Memorandum—June 21, 1989]

The regularly scheduled meetings of the Central Washington University board of trustees will be held in Room 143, Bouillon Hall, on the Central Washington University Campus in Ellensburg at 11:00 a.m. on the following dates:

October 6, 1989
November 3, 1989
December 8, 1989
February 9, 1990
March 9, 1990
April 20, 1990
June 15, 1990

WSR 89-14-024
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
[Memorandum—June 23, 1989]

This is to advise you that the Washington State Human Rights Commission will hold its next regular commission

meeting in Seattle. The meeting on July 26 will be held at the Port of Seattle, Third Floor Commission Chambers, Pier 66, Seattle, beginning at 7:00 p.m. and will be a training and work session. The regular business meeting will be held at the same location, beginning at 9:00 a.m. on July 27.

WSR 89-14-025
ADOPTED RULES
SEATTLE COMMUNITY COLLEGES
[Order 52, Resolution No. 1989-6—Filed June 6, 1989]

Be it resolved by the board of trustees of Seattle Community College District VI, acting at 6000 16th Avenue S.W., Seattle, WA 98116, that it does adopt the annexed rules relating to student complaints, WAC 132F-120-090.

This action is taken pursuant to Notice No. WSR 89-08-069 filed with the code reviser on April 4, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 28B.19.050(2).

This rule is promulgated pursuant to chapter 28B.19 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the institution has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 6, 1989.

By Lowell E. Knutson
Chairman

AMENDATORY SECTION (Amending Order 51, Resolution No. 1988-3, filed 4/6/88)

WAC 132F-120-090 STUDENT COMPLAINTS. Seattle Community College District shall establish a process whereby students may file a complaint against any member of the college community. ~~((Students who feel they have a complaint relating to an action by a member of the college community have the following procedure available:~~

~~(1) When a student has a complaint, he/she is encouraged first to consult with the person involved before initiating a complaint.~~

~~(2) When the student determines the complaint may be handled more appropriately without the person's involvement, a student may consult with a counselor to assist in determining the appropriate course of action or the student may contact the head of the appropriate division/department or the college's designated complaints officer.~~

~~(3) When complaints made to the head of the appropriate division/department have not been resolved, the student may bring the complaint to the complaints officer for further action.~~

~~(4) The designated complaints officer shall discuss the concerns outlined by the student and the options available for resolution. Should the student elect to proceed with a formal complaint, the concerns must be outlined in writing, specifying the complaint and identifying dates and persons involved as accurately as possible.~~

~~(a) When the written complaint is filed with the designated complaints officer, it shall be forwarded within fifteen calendar days to the appropriate division/departments head and other persons named in the complaint for response, within fifteen calendar days.~~

~~(b) Should the written response not resolve the complaint, then a conference shall be convened by the designated complaints officer among all parties involved, within fifteen calendar days, for the purpose of achieving a resolution of the complaint.~~

~~(c) The designated complaints officer shall keep all written statements, transcripts, and minutes associated with the complaint as part of the confidential files of the campus.~~

~~(d) If the conference does not resolve the complaint, the designated complaints officer shall notify the appropriate dean and forward the complaint for resolution within five calendar days.~~

~~(5) The appropriate dean shall review the minutes, transcripts, and other pertinent statements and discuss the complaint with the parties involved. If complaints filed with the dean have not been resolved, the dean shall, within fifteen calendar days, issue a written recommendation to the president which offers a resolution to the complaint.~~

~~(6) The recommendations of the dean, as well as the written record, shall be reviewed by the president who may amend, modify, reverse or accept the recommendations, and who shall then implement the resolution of the complaint within thirty calendar days, in the absence of an appeal.~~

~~(7) Within fifteen calendar days following receipt of a written decision by the president, the complainant may appeal to the district president, who may upon review of the written record amend, modify, reverse, or concur in the decision. The district president shall, within fifteen calendar days of receiving the appeal, direct the college president to implement the resolution of the complaint. The decision of the district president shall be the final decision of the college district and no appeals or hearings to the board of trustees shall be provided. Any implementation to resolve a student complaint shall be in conformity with any written agreements between the college district and the employee(s) in question.~~

~~(8)) The following procedures are to be used for the handling and disposition of all student complaints, except to the extent that provision is already established by written agreement between employer and employee. These procedures are available to all students and are intended to protect the rights of both the complainant and the respondent.~~

~~(1) GENERAL PROVISIONS.~~

~~(a) Each college president shall appoint a complaints mediator to handle student complaints. This position shall be filled by an employee whose position is below the level of dean and who receives special training for~~

this position. The district president shall also designate a complaints mediator to handle complaints where a respondent to a complaint is a district office employee.

(b) The complaints mediator shall have the responsibility for investigating, mediating, and seeking resolution for informal complaints, and shall have responsibility for investigating formal complaints.

(c) Information on the identity and location of the complaints mediator and a description of this procedure shall be generally disseminated throughout the college district.

(d) An informal complaint under this procedure must be initiated within ninety calendar days of the occurrence of the condition, event, or circumstance which gave rise to the complaint and formal complaints must be initiated within one hundred twenty days of such occurrence.

(2) INFORMAL COMPLAINTS. The purpose of the informal process is investigation, mediation, and resolution of the complaint.

(a) Students who have a complaint are encouraged to talk directly with the respondent.

(b) If talking with the respondent does not reach a satisfactory result, or if it is inappropriate for the complainant to speak with the respondent, the complainant may request the intervention of either the supervisor of the person complained against or the complaints mediator, either of whom shall provide mediation between the parties, including, if necessary, a mediation conference. If no satisfactory resolution is reached at this level, the complainant may file a formal written complaint.

(c) If the subject of the complaint is a faculty member, the complaints mediator must give written notice of the complaint as per article 6.2 of the SCCD/SCCFT agreement. Once this notice is given, the complaint provisions of the SCCD/SCCFT agreement will apply.

(3) FORMAL COMPLAINT.

(a) The complainant shall file the signed formal complaint in writing with the complaints mediator. The complaint shall specify in writing the specific nature of the complaint including dates, times, places, and circumstances surrounding the allegations. The complaint shall include any written documentation or other information supporting the complaint. The mediator will give the respondent and the respondent's supervisor a copy of the written complaint as well as any other supporting written documentation submitted by the complainant. The respondent will have an opportunity to reply to the complaints mediator within fifteen calendar days of receipt of this written information. Upon receipt of the response, or in the absence of such response, the mediator shall investigate the complaint and carry out such further efforts at mediation as may be appropriate, which may include another conference between the parties. The mediator shall conclude this stage of the process within forty-five calendar days of receipt of the formal written complaint. If the complaint is resolved, the mediator shall send a written statement of the resolution to each of the parties to the complaint. If there is no response within five calendar days, the matter shall be considered closed.

(b) If after these efforts, the complaint is not resolved, the mediator will offer the complainant the opportunity to have the complaint forwarded to the appropriate dean. Where a respondent to a complaint is a district office employee the appropriate dean shall be the vice chancellor for human resources. If the complainant wishes to have the complaint forwarded, the mediator will submit a complete written report of the proceedings as well as any additional information or documentation to the appropriate dean or vice chancellor, with copies to the complainant and the respondent. This information shall be submitted to the dean or vice chancellor within ten calendar days of receipt of the complainant's request to pursue the complaint further.

(c) Any of the parties shall have ten calendar days from receipt of this report in which to present additional information or arguments in writing to the dean or vice chancellor. Any of the parties during this ten-day period may also make a written request for an informal hearing.

(d) In the event an informal hearing is requested within the ten-day period, the dean or vice chancellor shall hold this informal hearing within twenty calendar days of receiving the written request. The hearing shall be informal and shall afford the parties an opportunity to present any and all relevant information and/or witnesses. The parties may cross-examine parties and witnesses, and may have the right to representation at this hearing.

(e) The dean or vice chancellor will render a written decision within thirty calendar days of the informal hearing, or, if no such hearing is requested, within thirty calendar days of receiving the written record from the complaints mediator. The dean may also conduct further investigation prior to rendering the written decision. This written decision shall be communicated to all parties.

(f) Either the complainant or respondent may request a review of this decision by appealing in writing to the college president (or district president in the event that a respondent to a complaint is a district office employee) within ten calendar days of receipt of the dean's written decision. Otherwise, the dean's or vice chancellor's decision is the final decision of the college district subject to discussion below.

Review by the college president or district president (where appropriate) shall be based solely upon review of the entire written record submitted by the dean or vice chancellor. Any written appeal at this stage shall be considered argument and not additional evidence. The president or district president shall accept, reject, or modify in whole or in part any or all of the dean or vice chancellor's decision, and render an independent written decision within fifteen calendar days of receipt of the written record. If the disposition of the complaint results in disciplinary action against a college employee, existing contractual or statutory procedures for administrative, academic, or classified staff shall be followed. In all other instances, the decision of the president or district president is the final decision of the college district and may not be appealed beyond this stage.

(4) COMPLAINTS REGARDING GRADES. No complaints requesting a grade review will be considered after two

consecutive quarters, not to include summer quarter, from the date of issue for that grade. Student complaints related to grades shall be reviewed as follows:

(a) Students are encouraged to consult with the instructor before initiating a grade review process as outlined in this procedure.

(b) The student shall indicate the grade received in the course together with the reason for the complaint, specifying as accurately as possible all pertinent performance scores and attendance data. This information shall be filed in writing with the designated complaints officer.

(c) When the complaint has been received by the designated complaints officer, it shall be forwarded to the division/department administrator and the course instructor who reported the grade for the instructor's review and possible adjustment.

(d) The course instructor shall reply in writing, indicating the basis on which the decision was made and include the grade reported for the student, the evaluation criteria for the course, and the performance scores and attendance data achieved by the student in that course. The decision is transmitted to the student through the complaints officer with whom the complaint was initially filed.

(e) Ordinarily, the above process of review should be sufficient, but if the student feels there were extenuating circumstances, a conference may be requested with the division/department administrator, the course instructor and the complaints officer. The conference shall investigate the circumstances of performance in the course and determine appropriate adjustments if warranted.

(f) Since the evaluation of the extent of course mastery is exclusively within the province of the instructor for a particular course, any adjustments or grade changes may be initiated only by that instructor or, under proven extenuating circumstances, by the appropriate dean of instruction, upon approval by the president.

WSR 89-14-026

ADOPTED RULES

DEPARTMENT OF PERSONNEL

(Personnel Board)

[Order 320—Filed June 26, 1989—Eff. August 1, 1989]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 521 South Capitol Way, Olympia, WA, that it does adopt the annexed rules relating to:

Amd WAC 356-30-140 Intermittent employment—Rules—Regulations.

Amd WAC 356-30-067 Temporary appointments from within classified service.

This action is taken pursuant to Notice Nos. WSR 89-10-062 and 89-11-043 filed with the code reviser on May 3, 1989, and May 16, 1989. These rules shall take effect at a later date, such date being August 1, 1989.

This rule is promulgated pursuant to RCW 41.06.150 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 8, 1989.

By Robert Boysen
Acting Director

AMENDATORY SECTION (Amending Order 313, filed 1/25/89, effective 3/1/89)

WAC 356-30-140 INTERMITTENT EMPLOYMENT—RULES—REGULATIONS. (1) Intermittent appointments may be made ((by)) with the approval of the director of personnel or designee. An intermittent appointment shall be approved when the nature of the work is intermittent in character fitting no particular pattern. An employee may not work more than 1560 nonovertime hours within any twelve-month period in an intermittent appointment. A position which is filled beyond the 1560 nonovertime hours within a twelve-month period shall be vacated for a minimum of three months. Time spent in emergency appointments will be counted in the 1560 hours.

(2) Intermittent appointments may be made at a lower level than the allocation of the position being filled provided the class falls within the same or a related class series.

(3) Intermittent appointees must meet the minimum qualifications for the class in which they are hired unless the director of personnel determines that program needs demand otherwise. Established registers may be used when making intermittent appointments.

(4) Consecutive appointments of the same person in the same agency may be made as long as the employee does not work more than 1560 nonovertime hours in a twelve-month period.

(5) No person can become a permanent employee because of time served as an intermittent employee.

(6) Intermittent employees who accept temporary appointments may return to intermittent employment and resume intermittent status without approval of the director of personnel if they have not exceeded 1560 nonovertime hours in all nonpermanent appointments within the last twelve months. If the employee reaches 1560 nonovertime hours in the last twelve months, a mandatory three-month break must be made, unless the director of personnel determines otherwise.

(7) Agencies must review intermittent appointments on a quarterly basis to ensure that intermittent employees are employed in accordance with these rules.

(8) The director of personnel shall monitor intermittent appointments made pursuant to this section and may revoke delegated authority where abuse is found.

AMENDATORY SECTION (Amending Order 313, filed 1/25/89, effective 3/1/89)

WAC 356-30-067 TEMPORARY APPOINTMENTS FROM WITHIN CLASSIFIED SERVICE.

(1) Temporary appointments may be made with the approval of the director of personnel or designee to classified positions during the absence of a permanent employee or during a workload peak when there is a need to fill a position for not more than nine months or 1560 nonovertime hours or while recruitment is being conducted to establish a complete register.

(2) Temporary appointments may be made at a lower level than the allocation of the position being filled provided the class falls within the same or a related class series.

(3) All temporary appointments to supervisory or managerial positions must be made from within state service unless the director determines that such action is not practicable.

(4) Established registers, certification, and referral services are available and may be used when making temporary appointments. An employee certified from the register to fill a position in the absence of a permanent employee may enter a probationary or trial service period and subsequently gain permanent status when the permanent employee does not return to the position and the agency needs to fill the position permanently. The director of personnel must approve the change in status before it occurs. Time served in a temporary appointment will not be counted as part of the probationary or trial service period.

(5) Temporary appointees must meet the minimum qualifications of the class to which they are appointed unless the director of personnel determines that program needs demand otherwise. Upon termination of such temporary appointment, permanent or probationary employees shall have the right to resume a permanent position within their permanent agency at their former status. The employee's salary upon return will be determined as if the employee had remained in the permanent position.

(6) Temporary appointments made from within classified service will normally last no more than nine months or 1560 nonovertime hours for single or multiple appointments. An extension may be approved by the director when a temporary appointment is made to replace a permanent employee who has been granted a leave of absence, when temporarily filling a supervisory or managerial position when there is reorganization pending, or as otherwise approved by the director. Temporary appointments may extend to thirty days after the date the permanent employee returns or the position is filled permanently. Time spent in emergency appointments will be counted in the 1560 hours.

(7) Compensation for temporary appointees shall be made in accordance with the rules governing promotions, demotions, or transfers.

(8) The director of personnel shall monitor temporary appointments made pursuant to this section and may revoke delegated authority where abuse is found.

WSR 89-14-027
ADOPTED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)

[Order 321—Filed June 26, 1989—Eff. August 1, 1989]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 521 South Capitol Way, Olympia, WA, that it does adopt the annexed rules relating to special pay ranges, amending WAC 356-15-130.

This action is taken pursuant to Notice No. WSR 89-10-038 filed with the code reviser on April 26, 1989 [April 28, 1989]. These rules shall take effect at a later date, such date being August 1, 1989.

This rule is promulgated pursuant to RCW 41.06.150 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 8, 1989.

By Robert Boysen
 Acting Director

AMENDATORY SECTION (Amending Order 221, filed 4/12/85)

WAC 356-15-130 SPECIAL PAY RANGES. These ranges are used to equal or approximate prevailing rate practices found in private industry or other governmental units. An affected class is identified either by a letter designation following the basic salary range number or by a letter designation preceding a number. In the latter case, a special salary schedule will be used for such classes.

(1) "E" range: This range is used for classes having a prevailing pay range which is shorter than Washington's standard ranges. An "E" range is a standard range with the first four steps removed. Thus, the first step of such a range is the same as Step E of the standard range having the same range number. Periodic increases through the steps of this range are made at the same time intervals as through standard ranges, i.e., a two-step increase after six months at Step E and two annually thereafter up to the maximum step of the range.

(2) "L" range: This special range is used only for the class of liquor store clerk (0628). The "L" range was designed to more closely parallel the prevailing pay structure for retail clerks in private industry. Periodic increases through the steps of the "L" range are made at the same time intervals as through a standard range. Normal progression is Steps A, D, G and K, which represents ten percent per periodic increase.

(3) "T" range: Used only for the classes of institution teachers. These ranges are constructed by identifying Step K of the correspondingly numbered regular state ranges as "Step 10" of the ((F=)) "T" range; the lower nine steps of the ((F=)) "T" range are each two regular-

range steps (approximately 5%) apart. Advancement through these ranges is at the rate of one step per year.

(4) "V" range: Used only for the classes of teachers of the deaf or blind and principals, school for the deaf or blind. "V" ranges are the same as the current ranges of Vancouver, Washington School District #37 for certificated employees of similar background and experience. Advancement through the range is at the rate of one step per year.

(5) "I" range: This range is always ten ranges higher than the range approved for lottery district sales representative or lottery telemarketing representative 1 and 2 and it may be applied only to ((that class)) those classifications. Use of this range is limited to sales incentive programs which: (a) May not exceed ten weeks for any program; (b) may not exceed four programs in any consecutive twelve months; (c) require achievement of specific goals which are set for each program by the lottery, such goals to be in excess of normal performance standards for the class.

The lottery is authorized to compensate individual employees on the "I" range for not more than three months as a result of any one sales incentive program, with the number of months stipulated in the incentive program announcement. Within these limits, movement of any employee to and from the "I" range will be at the discretion of the lottery, and shall be from and to the same step, subject to change by the employee's periodic ((increase)) increment date.

WSR 89-14-028
RULES COORDINATOR
INSURANCE COMMISSIONER
 [Memorandum—June 27, 1989]

In accordance with RCW 34.05.310, the rules coordinator for the Insurance Commissioner is Arloween Manley, 200 Insurance Building, Mailstop AQ-21, Olympia, Wa 98504-0321, phone (206) 753-2406 or 234-2406 scan.

WSR 89-14-029
PROPOSED RULES
CHIROPRACTIC EXAMINING BOARD
 [Filed June 27, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Chiropractic Examining Board intends to adopt, amend, or repeal rules concerning:

New	WAC 114-12-126	National board examination required.
New	WAC 114-12-164	Prior approval not required.
Amd	WAC 114-12-170	License renewal—Affidavit of compliance with continuing education requirements.
New	WAC 114-12-190	Lapsed license reinstatement.
Rep	WAC 114-12-125	Examinations—National board partial waiver.
Rep	WAC 114-12-145	License renewal registration date and fee.
Rep	WAC 114-12-160	Continuing chiropractic education—Guidelines for symposium approval;

that the agency will at 10:00 a.m., Thursday, August 17, 1989, in the Sea-Tac Executel, 20717 Pacific Highway South, Seattle, WA 98188, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.25.017.

The specific statute these rules are intended to implement is RCW 18.25.017.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 17, 1989.

Dated: June 26, 1989

By: John H. Keith
Assistant Attorney General
Board Counsel

STATEMENT OF PURPOSE

Name of Agency: Washington State Chiropractic Examining Board.

Rule Title, Summary, Purpose and Reason Proposed: WAC 114-12-126 would require all applicants for chiropractic license to have passed the national board examination prior to being eligible for the board's practical examination. This is proposed to implement section 4, chapter 258, Laws of 1989; WAC 114-12-164 would simplify the procedures for continuing chiropractic education approval by placing responsibility for compliance with the board's requirements on program sponsors with random audits to verify compliance. This is proposed to implement section 5, chapter 258, Laws of 1989; WAC 114-12-170 would be amended to add to the requirement of documentation of course attendance that it include a certificate of attendance and a brochure or syllabus for each course. This is proposed to clarify the acceptable documentation; WAC 114-12-190 would set standards for reinstatement of licenses that have lapsed for more than three years and is proposed to implement section 5, chapter 1958, Laws of 1989; and WAC 114-12-125, 114-12-145 and 114-12-160 are proposed for repeal as they would no longer be required if the proposed rules or amendments are adopted.

Statutory Authority: RCW 18.25.017.

Responsible Departmental Personnel: In addition to the Chiropractic Examining Board, the following board staff have knowledge of and responsibility for drafting, implementing and enforcing these rules: Connie Glasgow, Assistant Program Manager, Chiropractic Examining Board, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-0776 comm, 234-0776 scan.

Proponents: The Chiropractic Examining Board.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term is defined in RCW 43.31.920.

NEW SECTION

WAC 114-12-126 NATIONAL BOARD EXAMINATION REQUIRED. Effective January 1, 1990, in order to be eligible to take the practical examination all applicants shall satisfactorily pass the

National Board of Chiropractic Examiners test parts I and II which covers the subjects set forth in RCW 18.25.030 and which shall be in lieu of the conduct of said examinations by the board.

NEW SECTION

WAC 114-12-164 PRIOR APPROVAL NOT REQUIRED. (1) It will be unnecessary for a chiropractor to inquire into the prior approval of any continuing chiropractic education. The board will accept any continuing chiropractic education that reasonably falls within these regulations and relies upon each individual chiropractor's integrity in complying with this requirement.

(2) Continuing chiropractic education program sponsors need not apply for nor expect to receive prior board approval for a formal continuing chiropractic education program. The number of creditable hours may be determined by counting the contact hours of instruction and rounding to the nearest quarter hour. The board relies upon the integrity of program sponsors to present continuing chiropractic education that constitutes a meritorious learning experience and complies with RCW 18.25.070.

(3) The board will conduct a random compliance audit of renewal applicants. If the board determines that the applicant has not obtained continuing chiropractic education that reasonably falls within the subject matter defined in WAC 114-12-155 and the guidelines for symposium approval in WAC 114-12-155 and the guidelines for symposium approval in WAC 114-12-160, then the application for renewal will be denied.

AMENDATORY SECTION (Amending Order PM 764, filed 8/22/88)

WAC 114-12-170 LICENSE RENEWAL—AFFIDAVIT OF COMPLIANCE WITH CONTINUING EDUCATION REQUIREMENTS. (1) In conjunction with his or her annual application for renewal of license, a licensee shall submit, on a form provided by the board, an affidavit of compliance with the continuing education requirement of RCW 18.25.070.

(2) In addition to the affidavit of compliance, the licensee shall submit such further and other evidence and documentation to substantiate the affidavit of compliance as the board may request in any individual case and which shall include a certificate of attendance and a brochure or syllabus for each course attended. It shall be the responsibility of the licensee to maintain and provide such evidence and/or documentation on request of the board.

(3) The board will conduct a random compliance audit of renewal applicants. If the board determines that the applicant has not obtained continuing chiropractic education that reasonably falls within the subject matter defined in WAC 114-12-155 and the guidelines for symposium approval in WAC 114-12-160 then the application for renewal will be subject to denial.

NEW SECTION

WAC 114-12-190 LAPSED LICENSE REINSTATEMENT. A licentiate who allows his or her license to elapse for more than three years must: Pay all back renewal fees plus penalty fee and submit proof of continuing education courses during the time the license was lapsed. If the licensee cannot submit proof of continuing education courses during the time the license was lapsed he/she will be required to be reexamined as provided for in RCW 18.25.040.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 114-12-125 EXAMINATIONS—NATIONAL BOARD PARTIAL WAIVER.

WAC 114-12-145 LICENSE RENEWAL REGISTRATION DATE AND FEE.

WAC 114-12-160 CONTINUING CHIROPRACTIC EDUCATION—GUIDELINES FOR SYMPOSIUM APPROVAL.

WSR 89-14-030
PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed June 27, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Licensing intends to adopt, amend, or repeal rules concerning fees charged physicians and surgeons, amending WAC 308-52-590 Physician and surgeon fees;

that the agency will at 9:00 a.m., Monday, August 14, 1989, in the 4th Floor Conference Room, Highways-Licenses Building, 12th and Franklin, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on a date after the hearing.

The authority under which these rules are proposed is RCW 18.72.306 as amended by chapter 119, Laws of 1989.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 14, 1989.

Dated: June 26, 1989

By: John H. Keith
Assistant Attorney General
Agency Counsel

STATEMENT OF PURPOSE

Name of Agency: Washington State Department of Licensing.

Rule Title, Summary, Purpose and Reason Proposed: WAC 308-52-590 is proposed for amendment by increasing the impaired physician surcharge from \$15.00 to \$25.00 in order to provide additional funds for the impaired physician program.

Statutory Authority: Section 2, chapter 119, Laws of 1989.

Responsible Departmental Personnel: In the Department of Licensing, the following departmental personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Chris Robert Rose, Administrator, Professional Programs Management Division, 1300 Quince S.E., Olympia, WA 98504, 234-3234 scan, 753-3234 comm.

Proponents: The director of the Department of Licensing.

Federal Law or Federal or State Court Requirements: Not necessitated as the result of federal law or federal or state court requirements.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses.

AMENDATORY SECTION (Amending Order PM 680, filed 9/22/87)

WAC 308-52-590 PHYSICIAN AND SURGEON FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Table with 2 columns: Title of Fee, Fee. Includes categories like Physician and surgeons, Certification, Duplicate license, Limited license, Physician's assistants.

WSR 89-14-031

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 2012-Filed June 28, 1989-Eff. September 1, 1989]

I, C. Alan Pettibone, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to standards for apples marketed within Washington, chapter 16-403 WAC.

This action is taken pursuant to Notice Nos. WSR 89-09-011 and 89-13-047 filed with the code reviser on April 10, 1989, and June 16, 1989. These rules shall take effect at a later date, such date being September 1, 1989.

This rule is promulgated pursuant to chapter 15.17 RCW and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 28, 1989.

By C. Alan Pettibone
Director

AMENDATORY SECTION (Amending Order 1982, filed 7/6/88, effective 9/1/88)

WAC 16-403-142 RED DELICIOUS, DELICIOUS, AND GOLDEN DELICIOUS-MINIMUM FIRMNESS. At the time of shipment, Red Delicious, Delicious, and Golden Delicious apples of all grades ((except U.S. No. 1 and U.S. No. 1 hail)) shall not be further advanced in maturity than firm ripe.

AMENDATORY SECTION (Amending Order 1982, filed 7/6/88, effective 9/1/88)

WAC 16-403-190 TOLERANCES. In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances are provided as specified:

(1) Defects: Washington extra fancy, Washington fancy and Washington C grade.

Ten percent of the apples in any lot may fail to meet the requirements of the grade, but not more than one-half of this amount, or 5 percent, shall be allowed for apples which are seriously damaged, including therein not more than one percent for apples affected by decay or internal breakdown.

(2) When applying the foregoing tolerances to combination grades, no part of any tolerance shall be allowed to reduce, for the lot as a whole, the percent of apples of the higher grade required in the combination.

Combinations requiring 80 percent of the higher grade for the lot shall have not less than 65 percent of the higher grade in individual samples.

Combinations requiring 50 percent of the higher grade for the lot shall have not less than 40 percent of the higher grade in individual samples.

(3) Size. When size is designated by the numerical count for a container, not more than 5 percent of the apples in the lot may vary more than 1/4 inch in diameter. When size is designated by minimum or maximum diameter, not more than 5 percent of the apples in any lot may be smaller than the designated minimum and not more than 10 percent may be larger than the designated maximum.

(4) Firmness. Not more than 5 percent of the apples in any lot of Red Delicious, Delicious, and Golden Delicious varieties shall be further advanced in maturity than firm ripe (~~(-PROVIDED, The U.S. No. 1 and U.S. No. 1 hail grades shall be exempt from this requirement))~~).

AMENDATORY SECTION (Amending Order 1982, filed 7/6/88, effective 9/1/88)

WAC 16-403-280 ADOPTION OF UNITED STATES STANDARDS AS STATE STANDARDS. In addition to the standards for apples prescribed in WAC 16-403-140 through 16-403-275, there are hereby adopted, as additional standards of the state of Washington for apples, the United States standards for grades of apples, effective September 1, 1964, as amended October 1, 1966, July 25, 1972, and March 25, 1976, adopted by the United States Department of Agriculture, as they apply to U.S. extra fancy, U.S. fancy, U.S. No. 1 and U.S. No. 1 hail, provided, the color requirements specified for U.S. No. 1 and U.S. No. 1 hail must be good shade of red color and the percentage of color required for U.S. No. 1 and U.S. No. 1 hail for delicious shall be 25 percent good shade of red color and provided further, that all the (~~U.S. extra fancy and U.S. fancy~~) United States grades as applied to Red Delicious, Delicious, and Golden Delicious varieties shall meet the firmness requirements of WAC 16-403-142.

WSR 89-14-032**PROPOSED RULES****SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Filed June 28, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning conduct of administrative hearings, WAC 392-101-010;

that the agency will at 9:00, Friday, August 11, 1989, in the Wanamaker Conference Room, Old Capitol Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 34.04.020.

Dated: June 28, 1989

By: Judith A. Billings
Superintendent of
Public Instruction

STATEMENT OF PURPOSE

Rule Section(s): WAC 392-101-010.

Statutory Authority: RCW 34.04.020.

Purpose of the Rule(s): Expands child care food program and summer food service program appeals pursuant to 7 C.F.R. Parts 225 and 226.

Summary of the New Rule(s) and/or Amendments: [No information supplied by agency.]

Reasons Which Support the Proposed Action(s): [No information supplied by agency.]

Person or Organization Proposing the Rule(s): SBE, government.

Agency Personnel Responsible for Drafting: Richard M. Wilson, SPI, 753-2298; Implementation and Enforcement: Doyle Winter, SPI, 753-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 87-5, filed 4/28/87)

WAC 392-101-010 CONDUCT OF ADMINISTRATIVE HEARINGS. The superintendent of public instruction hereby assigns the following administrative hearings to the office of administrative hearings and hereby delegates to the administrative law judge conducting any such hearing the authority to render the final decision by the superintendent of public instruction:

(1) Nonresident transfer appeals pursuant to WAC 392-137-055(2).

(2) Special education hearings pursuant to WAC 392-171-531.

(3) Equal educational opportunity complaints pursuant to WAC 392-190-075.

(4) Professional certification appeals pursuant to WAC 180-75-030.

(5) Child Care Food Program and Summer Food Service Program appeals pursuant to 7 C.F.R. Parts 225 and 226.

WSR 89-14-033
PROPOSED RULES
SUPERINTENDENT OF PUBLIC INSTRUCTION
 [Filed June 28, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning WAC 392-126-100, 392-126-105, 392-126-110, 392-126-115, 392-126-120, 392-126-125, 392-126-130, 392-126-135, 392-126-200, 392-126-205, 392-126-210, 392-126-215, 392-126-220, 392-126-225, 392-126-230, 392-126-235, 392-126-240, 392-126-245, 392-126-250, 392-126-255, 392-126-260, 392-126-265, 392-126-270, 392-126-275, 392-126-280, 392-126-285, 392-126-290, 392-126-291, 392-126-300, 392-126-305, 392-126-310, 392-126-315, 392-126-320, 392-126-325, 392-126-330, 392-126-335, 392-126-336, 392-126-340, 392-126-345, 392-126-355, 392-126-360, 392-126-365, 392-126-370, 392-126-375, 392-126-380, 392-126-385, 392-126-390, 392-126-391, 392-126-392, 392-126-500, 392-126-505, 392-126-510, 392-126-600, 392-126-605, 392-126-610, 392-126-615, 392-126-620, 392-126-625, 392-126-630, 392-126-700, 392-126-705, 392-126-710, 392-126-800, 392-126-805, 392-126-810, 392-126-815, 392-126-820, 392-126-825 and 392-126-830;

that the agency will at 9:00 a.m., Friday, August 11, 1989, in the Wanamaker Conference Room, Old Capitol Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28A.58.095.

Dated: June 28, 1989
 By: Judith A. Billings
 Superintendent of
 Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-126 WAC.

Rule Section(s): See above.

Statutory Authority: RCW 28A.58.095.

Purpose of the Rule(s): Rules outdated by legislative mandate.

Summary of the New Rule(s) and/or Amendments: [No information supplied by agency.]

Reasons Which Support the Proposed Action(s): [No information supplied by agency.]

Person or Organization Proposing the Rule(s): SBE, government.

Agency Personnel Responsible for Drafting: Richard M. Wilson, SPI, 753-2298; Implementation and Enforcement: Doyle Winter, SPI, 753-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter

Pertaining to the Rule(s): [No information supplied by agency.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 392-126-100 DEFINITION—DAY.
- WAC 392-126-105 DEFINITION—CURRENT SCHOOL YEAR.
- WAC 392-126-110 DEFINITION—PRIOR SCHOOL YEAR.
- WAC 392-126-115 DEFINITION—COMPENSATION.
- WAC 392-126-120 DEFINITION—LEAP DOCUMENT FOR BASIC EDUCATION STAFF SALARY ALLOCATIONS.
- WAC 392-126-125 DEFINITION—REDUCTION IN FORCE (RIF).
- WAC 392-126-130 DEFINITION—NEW POSITION.
- WAC 392-126-135 DEFINITION—REPORT 1191.
- WAC 392-126-200 DEFINITION—CERTIFICATED EMPLOYEE.
- WAC 392-126-205 DEFINITION—FULL-TIME EQUIVALENT CERTIFICATED EMPLOYEE.
- WAC 392-126-210 DEFINITION—FORM S-275.
- WAC 392-126-215 DEFINITION—REPORT S-727.
- WAC 392-126-220 DEFINITION—BASIC EDUCATION CERTIFICATED STAFF.
- WAC 392-126-225 DEFINITION—CERTIFICATED STAFF SALARIES.
- WAC 392-126-230 DEFINITION—CURRENT SCHOOL YEAR CERTIFICATED STAFF HIGHEST ANNUAL SALARIES.
- WAC 392-126-235 DEFINITION—CERTIFICATED INSURANCE BENEFITS.
- WAC 392-126-240 DEFINITION—LEAP DOCUMENT 1.
- WAC 392-126-245 DEFINITION—CERTIFICATED STAFF MIX FACTOR.
- WAC 392-126-250 DEFINITION—DISTRICT CERTIFICATED STAFF MIX FACTOR.
- WAC 392-126-255 DEFINITION—CURRENT SCHOOL YEAR DISTRICT CERTIFICATED DERIVED BASE SALARY.
- WAC 392-126-260 DEFINITION—MAXIMUM ALLOWED BASIC EDUCATION CERTIFICATED DERIVED BASE SALARY.
- WAC 392-126-265 DEFINITION—MAXIMUM ALLOWED CERTIFICATED INSURANCE BENEFITS.
- WAC 392-126-270 DEFINITION—FORM 1040.
- WAC 392-126-275 DEFINITION—FORM 1041.
- WAC 392-126-280 DEFINITION—FORM 1042.
- WAC 392-126-285 DEFINITION—FORM 1043.
- WAC 392-126-290 DEFINITION—PRIOR SCHOOL YEAR CERTIFICATED STAFF HIGHEST ANNUAL SALARIES.
- WAC 392-126-291 DEFINITION—PRIOR SCHOOL YEAR DISTRICT CERTIFICATED DERIVED BASE SALARY.
- WAC 392-126-300 DEFINITION—CLASSIFIED EMPLOYEE.
- WAC 392-126-305 DEFINITION—FULL-TIME EQUIVALENT CLASSIFIED EMPLOYEE.
- WAC 392-126-310 DEFINITION—FORM S-277.
- WAC 392-126-315 DEFINITION—REPORT S-730.
- WAC 392-126-320 DEFINITION—BASIC EDUCATION CLASSIFIED STAFF.
- WAC 392-126-325 DEFINITION—CLASSIFIED STAFF SALARIES.
- WAC 392-126-330 DEFINITION—CURRENT SCHOOL YEAR CLASSIFIED STAFF HIGHEST ANNUAL SALARIES.
- WAC 392-126-335 DEFINITION—CLASSIFIED INSURANCE BENEFITS.
- WAC 392-126-336 DEFINITION—DISTRICT 1440 CLASSIFIED INSURANCE BENEFIT FACTOR.
- WAC 392-126-340 DEFINITION—CLASSIFIED INCREMENT MIX FACTOR.
- WAC 392-126-345 DEFINITION—DISTRICT CLASSIFIED INCREMENT MIX FACTOR.
- WAC 392-126-355 DEFINITION—CURRENT SCHOOL YEAR DISTRICT CLASSIFIED DERIVED BASE SALARY.
- WAC 392-126-360 DEFINITION—MAXIMUM ALLOWED BASIC EDUCATION CLASSIFIED DERIVED BASE SALARY.

WAC 392-126-365 DEFINITION—MAXIMUM ALLOWED CLASSIFIED INSURANCE BENEFITS.

WAC 392-126-370 DEFINITION—FORM 1045.

WAC 392-126-375 DEFINITION—FORM 1046.

WAC 392-126-380 DEFINITION—FORM 1047.

WAC 392-126-385 DEFINITION—FORM 1048.

WAC 392-126-390 DEFINITION—FORM 1049.

WAC 392-126-391 DEFINITION—PRIOR SCHOOL YEAR CLASSIFIED STAFF HIGHEST ANNUAL SALARIES.

WAC 392-126-392 DEFINITION—PRIOR SCHOOL YEAR DISTRICT CLASSIFIED DERIVED BASE SALARY.

WAC 392-126-500 SALARY—COMPENSATION LID COMPLIANCE—COMPLIANCE OF AVERAGE CERTIFICATED SALARIES.

WAC 392-126-505 SALARY—COMPENSATION LID COMPLIANCE—COMPLIANCE OF CERTIFICATED INSURANCE BENEFITS.

WAC 392-126-510 SALARY—COMPENSATION LID COMPLIANCE—NO INCREASES CONSTITUTE COMPLIANCE—CERTIFICATED STAFF.

WAC 392-126-600 SALARY—COMPENSATION LID COMPLIANCE—REPORTING CYCLE—CERTIFICATED STAFF.

WAC 392-126-605 SALARY—COMPENSATION LID COMPLIANCE—REPORTING CYCLE—DISTRICT INITIAL EDIT OF CERTIFICATED PERSONNEL DATA.

WAC 392-126-610 SALARY—COMPENSATION LID COMPLIANCE—REPORTING CYCLE—DATA ANALYSIS AND DETERMINATION OF NEED FOR ADDITIONAL INFORMATION—CERTIFICATED STAFF.

WAC 392-126-615 SALARY—COMPENSATION LID COMPLIANCE—REPORTING CYCLE—REVIEW OF ADDITIONAL INFORMATION—CERTIFICATED STAFF.

WAC 392-126-620 SALARY—COMPENSATION LID COMPLIANCE—REPORTING CYCLE—DETERMINATION OF VIOLATION AFTER REVIEW—CERTIFICATED STAFF.

WAC 392-126-625 SALARY—COMPENSATION LID COMPLIANCE—REPORTING CYCLE—DISTRICT SUBSEQUENT CHANGES OF CERTIFICATED PERSONNEL DATA.

WAC 392-126-630 SALARY—COMPENSATION LID COMPLIANCE—WITHHOLDING OF BASIC EDUCATION ALLOCATION—CERTIFICATED STAFF.

WAC 392-126-700 SALARY—COMPENSATION LID COMPLIANCE—COMPLIANCE OF AVERAGE CLASSIFIED SALARIES.

WAC 392-126-705 SALARY—COMPENSATION LID COMPLIANCE—COMPLIANCE OF CLASSIFIED INSURANCE BENEFITS.

WAC 392-126-710 SALARY—COMPENSATION LID COMPLIANCE—NO INCREASES CONSTITUTE COMPLIANCE—CLASSIFIED STAFF.

WAC 392-126-800 SALARY—COMPENSATION LID COMPLIANCE—REPORTING CYCLE—CLASSIFIED STAFF.

WAC 392-126-805 SALARY—COMPENSATION LID COMPLIANCE—REPORTING CYCLE—DISTRICT INITIAL EDIT OF CLASSIFIED PERSONNEL DATA.

WAC 392-126-810 SALARY—COMPENSATION LID COMPLIANCE—REPORTING CYCLE—DATA ANALYSIS AND DETERMINATION OF NEED FOR ADDITIONAL INFORMATION—CLASSIFIED STAFF.

WAC 392-126-815 SALARY—COMPENSATION LID COMPLIANCE—REPORTING CYCLE—REVIEW OF ADDITIONAL INFORMATION—CLASSIFIED STAFF.

WAC 392-126-820 SALARY—COMPENSATION LID COMPLIANCE—REPORTING CYCLE—DETERMINATION OF VIOLATION AFTER REVIEW—CLASSIFIED STAFF.

WAC 392-126-825 SALARY—COMPENSATION LID COMPLIANCE—REPORTING CYCLE—DISTRICT SUBSEQUENT CHANGES OF CLASSIFIED PERSONNEL DATA.

WAC 392-126-830 SALARY—COMPENSATION LID COMPLIANCE—WITHHOLDING OF BASIC EDUCATION ALLOCATION—CLASSIFIED STAFF.

WSR 89-14-034

PROPOSED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed June 28, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning WAC 392-127-100, 392-127-105, 392-127-110, 392-127-115, 392-127-120, 392-127-200, 392-127-205, 392-127-210, 392-127-215, 392-127-235, 392-127-240, 392-127-245, 392-127-250, 392-127-255, 392-127-264, 392-127-265, 392-127-268, 392-127-270, 392-127-271, 392-127-275, 392-127-280, 392-127-286, 392-127-287, 392-127-295, 392-127-296, 392-127-297, 392-127-300, 392-127-305, 392-127-310, 392-127-315, 392-127-335, 392-127-340, 392-127-345, 392-127-350, 392-127-355, 392-127-364, 392-127-365, 392-127-368, 392-127-370, 392-127-371, 392-127-375, 392-127-380, 392-127-386, 392-127-387, 392-127-395, 392-127-396, 392-127-397, 392-127-545, 392-127-550, 392-127-551, 392-127-555, 392-127-565, 392-127-570, 392-127-576, 392-127-577, 392-127-578, 392-127-579, 392-127-580, 392-127-645, 392-127-650, 392-127-651, 392-127-655, 392-127-665, 392-127-670, 392-127-676, 392-127-677, 392-127-678, 392-127-679 and 392-127-680;

that the agency will at 9:00 a.m., Friday, August 11, 1989, in the Wanamaker Conference Room, Old Capitol Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28A.58.095.

Dated: June 28, 1989

By: Judith A. Billings
Superintendent of
Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-127 WAC.

Rule Section(s): See above.

Statutory Authority: RCW 28A.58.095.

Purpose of the Rule(s): Rules outdated by legislative mandate.

Summary of the New Rule(s) and/or Amendments: [No information supplied by agency.]

Reasons Which Support the Proposed Action(s): [No information supplied by agency.]

Person or Organization Proposing the Rule(s): SBE, government.

Agency Personnel Responsible for Drafting: Richard M. Wilson, SPI, 753-2298; Implementation and Enforcement: Doyle Winter, SPI, 753-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter

Pertaining to the Rule(s): [No information supplied by agency.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 392-127-100 DEFINITION—DAY.
WAC 392-127-105 DEFINITION—CURRENT SCHOOL YEAR.
WAC 392-127-110 DEFINITION—PRIOR SCHOOL YEAR.
WAC 392-127-115 DEFINITION—REVISED LEAP DOCUMENT 7.
WAC 392-127-120 DEFINITION—LEAP DOCUMENT 1.
WAC 392-127-200 DEFINITION—CERTIFICATED EMPLOYEE.
WAC 392-127-205 DEFINITION—FULL-TIME EQUIVALENT CERTIFICATED EMPLOYEE.
WAC 392-127-210 DEFINITION—FORM S-275.
WAC 392-127-215 DEFINITION—REPORT S-727.
WAC 392-127-235 DEFINITION—CERTIFICATED INSURANCE BENEFITS.
WAC 392-127-240 DEFINITION—CERTIFICATED EXEMPT EMPLOYEE.
WAC 392-127-245 DEFINITION—CERTIFICATED SUPERVISORY EMPLOYEE.
WAC 392-127-250 DEFINITION—CERTIFICATED NON-SUPERVISORY EMPLOYEE.
WAC 392-127-255 DEFINITION—CERTIFICATED ADMINISTRATIVE GROUP.
WAC 392-127-264 DEFINITION—PRIOR SCHOOL YEAR CERTIFICATED PROFESSIONAL EXPERIENCE AND EDUCATIONAL PREPARATION.
WAC 392-127-265 DEFINITION—CURRENT SCHOOL YEAR CERTIFICATED PROFESSIONAL EXPERIENCE AND EDUCATIONAL PREPARATION.
WAC 392-127-268 DEFINITION—CERTIFICATED ADMINISTRATIVE GROUP STAFF MIX FACTOR.
WAC 392-127-270 DEFINITION—CONVERTED PRIOR SCHOOL YEAR CERTIFICATED HIGHEST MONTHLY SALARY.
WAC 392-127-271 DEFINITION—CURRENT SCHOOL YEAR CERTIFICATED HIGHEST MONTHLY SALARY.
WAC 392-127-275 DEFINITION—CONVERTED PRIOR SCHOOL YEAR CERTIFICATED AVERAGE ANNUALIZED SALARY FOR THE CERTIFICATED ADMINISTRATIVE GROUP.
WAC 392-127-280 DEFINITION—CURRENT SCHOOL YEAR CERTIFICATED AVERAGE ANNUALIZED SALARY FOR THE CERTIFICATED ADMINISTRATIVE GROUP.
WAC 392-127-286 DEFINITION—ALLOWED SALARY INCREASE PERCENT FOR THE CERTIFICATED ADMINISTRATIVE GROUP.
WAC 392-127-287 DEFINITION—ACTUAL SALARY INCREASE PERCENT FOR THE CERTIFICATED ADMINISTRATIVE GROUP.
WAC 392-127-295 DEFINITION—PRIOR SCHOOL YEAR CERTIFICATED AVERAGE ANNUAL INSURANCE BENEFITS FOR THE CERTIFICATED ADMINISTRATIVE GROUP.
WAC 392-127-296 DEFINITION—CURRENT SCHOOL YEAR CERTIFICATED AVERAGE ANNUAL INSURANCE BENEFITS FOR THE CERTIFICATED ADMINISTRATIVE GROUP.
WAC 392-127-297 DEFINITION—FORM 1079A.
WAC 392-127-300 DEFINITION—CLASSIFIED EMPLOYEE.
WAC 392-127-305 DEFINITION—FULL-TIME EQUIVALENT CLASSIFIED EMPLOYEE.
WAC 392-127-310 DEFINITION—FORM S-277.
WAC 392-127-315 DEFINITION—REPORT S-730.
WAC 392-127-335 DEFINITION—CLASSIFIED INSURANCE BENEFITS.
WAC 392-127-340 DEFINITION—CLASSIFIED EXEMPT EMPLOYEE.
WAC 392-127-345 DEFINITION—CLASSIFIED SUPERVISORY EMPLOYEE.
WAC 392-127-350 DEFINITION—CLASSIFIED NONSUPERVISORY EMPLOYEE.
WAC 392-127-355 DEFINITION—CLASSIFIED ADMINISTRATIVE GROUP.
WAC 392-127-364 DEFINITION—PRIOR SCHOOL YEAR CLASSIFIED YEARS OF EXPERIENCE.
WAC 392-127-365 DEFINITION—CURRENT SCHOOL YEAR CLASSIFIED YEARS OF EXPERIENCE.
WAC 392-127-368 DEFINITION—DISTRICT CLASSIFIED ADMINISTRATIVE GROUP INCREMENT MIX FACTOR.
WAC 392-127-370 DEFINITION—CONVERTED PRIOR SCHOOL YEAR CLASSIFIED HIGHEST HOURLY RATE.
WAC 392-127-371 DEFINITION—CURRENT SCHOOL YEAR CLASSIFIED HIGHEST HOURLY RATE.
WAC 392-127-375 DEFINITION—CONVERTED PRIOR SCHOOL YEAR CLASSIFIED AVERAGE ANNUALIZED SALARY—FOR THE CLASSIFIED ADMINISTRATIVE GROUP.
WAC 392-127-380 DEFINITION—CURRENT SCHOOL YEAR CLASSIFIED AVERAGE ANNUALIZED SALARY FOR THE CLASSIFIED ADMINISTRATIVE GROUP.
WAC 392-127-386 DEFINITION—ALLOWED SALARY INCREASE PERCENT FOR THE CLASSIFIED ADMINISTRATIVE GROUP.
WAC 392-127-387 DEFINITION—ACTUAL SALARY INCREASE PERCENT FOR THE CLASSIFIED ADMINISTRATIVE GROUP.
WAC 392-127-395 DEFINITION—PRIOR SCHOOL YEAR CLASSIFIED AVERAGE ANNUAL INSURANCE BENEFITS FOR THE CLASSIFIED ADMINISTRATIVE GROUP.
WAC 392-127-396 DEFINITION—CURRENT SCHOOL YEAR CLASSIFIED AVERAGE ANNUAL INSURANCE BENEFITS FOR THE CLASSIFIED ADMINISTRATIVE GROUP.
WAC 392-127-397 DEFINITION—FORM 1079B.
WAC 392-127-545 CERTIFICATED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—COMPLIANCE OF AVERAGE SALARY.
WAC 392-127-550 CERTIFICATED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—COMPLIANCE FOR INSURANCE BENEFITS—DIRECT COMPARISON.
WAC 392-127-551 CERTIFICATED ADMINISTRATIVE GROUP COMPLIANCE—NO INSURANCE BENEFIT INCREASES CONSTITUTE COMPLIANCE FOR THE CERTIFICATED ADMINISTRATIVE GROUP.
WAC 392-127-555 CERTIFICATED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—COMPLIANCE FOR INSURANCE BENEFITS—SALARY TRADE.
WAC 392-127-565 CERTIFICATED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—CALCULATION OF PENALTY FOR NONCOMPLIANCE ON SALARIES.
WAC 392-127-570 CERTIFICATED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—CALCULATION OF PENALTY FOR NONCOMPLIANCE ON INSURANCE BENEFITS.
WAC 392-127-576 CERTIFICATED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—REPORTING CYCLE—CERTIFICATED ADMINISTRATIVE GROUP.
WAC 392-127-577 CERTIFICATED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—REPORTING CYCLE—DISTRICT INITIAL EDIT OF THE CERTIFICATED ADMINISTRATIVE GROUP PERSONNEL DATA.
WAC 392-127-578 CERTIFICATED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—REPORTING CYCLE—DATA ANALYSIS AND DETERMINATION OF NEED FOR ADDITIONAL INFORMATION.
WAC 392-127-579 CERTIFICATED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—REPORTING CYCLE—REVIEW OF ADDITIONAL INFORMATION.
WAC 392-127-580 CERTIFICATED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—REPORTING CYCLE—DISTRICT SUBSEQUENT CHANGES OF DATA.
WAC 392-127-645 CLASSIFIED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—COMPLIANCE OF AVERAGE SALARY.
WAC 392-127-650 CLASSIFIED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—COMPLIANCE OF INSURANCE BENEFITS—DIRECT COMPARISON.

WAC 392-127-651 CLASSIFIED ADMINISTRATIVE GROUP COMPLIANCE—NO INSURANCE BENEFIT INCREASES CONSTITUTE COMPLIANCE FOR THE CLASSIFIED ADMINISTRATIVE GROUP.

WAC 392-127-655 CLASSIFIED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—COMPLIANCE OF INSURANCE BENEFITS—SALARY TRADE.

WAC 392-127-665 CLASSIFIED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—CALCULATION OF PENALTY FOR NONCOMPLIANCE ON SALARIES.

WAC 392-127-670 CLASSIFIED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—CALCULATION OF PENALTY FOR NONCOMPLIANCE ON INSURANCE BENEFITS.

WAC 392-127-676 CLASSIFIED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—REPORTING CYCLE—CLASSIFIED ADMINISTRATIVE GROUP.

WAC 392-127-677 CLASSIFIED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—REPORTING CYCLE—DISTRICT INITIAL EDIT OF THE CLASSIFIED ADMINISTRATIVE GROUP PERSONNEL DATA.

WAC 392-127-678 CLASSIFIED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—REPORTING CYCLE DATA ANALYSIS AND DETERMINATION OF NEED FOR ADDITIONAL INFORMATION.

WAC 392-127-679 CLASSIFIED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—REPORTING CYCLE—REVIEW OF ADDITIONAL INFORMATION.

WAC 392-127-680 CLASSIFIED ADMINISTRATIVE GROUP COMPLIANCE PROCESS—REPORTING CYCLE—DISTRICT SUBSEQUENT CHANGES OF DATA.

WSR 89-14-035

PROPOSED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed June 28, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning student aid donations and other non-associated student body moneys, WAC 392-138-100;

that the agency will at 9:00, Friday, August 11, 1989, in the Wanamaker Conference Room, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28A.58.115.

Dated: June 28, 1989

By: Judith A. Billings
Superintendent of
Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-138 WAC.

Rule Section(s): WAC 392-138-100.

Statutory Authority: RCW 28A.58.115.

Purpose of the Rule(s): Clarifies disposition of ASB funds.

Summary of the New Rule(s) and/or Amendments: [No information supplied by agency.]

Reasons Which Support the Proposed Action(s): [No information supplied by agency.]

Person or Organization Proposing the Rule(s): SBE, government.

Agency Personnel Responsible for Drafting: Richard M. Wilson, SPI, 753-2298; Implementation and Enforcement: Doyle Winter, SPI, 753-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 84-15, filed 6/13/84)

WAC 392-138-100 STUDENT AID DONATIONS AND OTHER NONASSOCIATED STUDENT BODY MONEYS. Prior to September 1, 1989, the board of directors of a school district may accept money donated for scholarship and student aid purposes and deposit, invest, and expend the same within the associated student body program fund pursuant to the school district's rules and regulations adopted in compliance with RCW 28A.58.030. After August 31, 1989, the board of directors of a school district may accept such moneys received pursuant to RCW 28A.58.030 and deposit same to the credit of the school district's expendable and/or nonexpendable trust funds as specified in the Accounting Manual for Washington Public School Districts. Any remaining moneys on August 31, 1989, in associated student body program funds from donations pursuant to this section shall be transferred to the school district's expendable and/or nonexpendable trust funds.

Nonassociated student body program fund moneys generated and received by students for private purposes, including but not limited to use for scholarship and/or charitable purposes, may, in the discretion of the board of directors of any school district, be held in trust in one or more separate accounts within an associated student body program fund and be disbursed for such purposes: PROVIDED, That the school district shall either withhold an amount from such moneys as will pay the district for its cost in providing the service or otherwise be compensated for its cost for such service.

WAC 392-138-035 shall apply to moneys received, deposited, invested, expended, and accounted for under this section.

WSR 89-14-036

PROPOSED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed June 28, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning WAC 392-140-042, 392-140-043, 392-140-044, 392-140-046, 392-140-047, 392-140-048, 392-140-049, 392-140-050, 392-140-051, 392-140-052, 392-140-053, 392-140-054, 392-140-055, 392-140-056, 392-140-057, 392-140-058, 392-140-059, 392-140-061, 392-140-062, 392-140-063, 392-140-064, 392-140-065, 392-140-066, 392-140-085, 392-140-086, 392-140-087, 392-140-088, 392-140-089, 392-140-090, 392-140-091, 392-140-092, 392-140-093, 392-140-094, 392-140-095, 392-140-096, 392-140-097, 392-140-098, 392-140-099, 392-140-100, 392-140-101, 392-140-102, 392-140-103, 392-140-104, 392-140-105, 392-140-106, 392-140-107, 392-140-108, 392-140-109, 392-140-110, 392-140-111, 392-140-112, 392-140-113, 392-140-114, 392-140-115, 392-140-116, 392-140-117, 392-140-118, 392-140-119, 392-140-120, 392-140-121, 392-140-122, 392-140-123, 392-140-124, 392-140-125, 392-

140-126, 392-140-127, 392-140-128, 392-140-129, 392-140-130, 392-140-131, 392-140-132, 392-140-133, 392-140-134, 392-140-135, 392-140-136, 392-140-137, 392-140-138, 392-140-139, 392-140-140, 392-140-141, 392-140-145, 392-140-146, 392-140-147, 392-140-148, 392-140-149, 392-140-150, 392-140-151, 392-140-152, 392-140-153, 392-140-154, 392-140-155, 392-140-156, 392-140-157, 392-140-158, 392-140-159, 392-140-160, 392-140-161, 392-140-162, 392-140-163, 392-140-164, 392-140-165, 392-140-166, 392-140-167, 392-140-168, 392-140-169, 392-140-170, 392-140-171, 392-140-172, 392-140-173 and 392-140-174;

that the agency will at 9:00 a.m., Friday, August 11, 1989, in the Wanamaker Conference Room, Old Capitol Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28A.58.095.

Dated: June 28, 1989
 By: Judith A. Billings
 Superintendent of
 Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-140 WAC.

Rule Section(s): See above.

Statutory Authority: RCW 28A.03.030(3).

Purpose of the Rule(s): Rules outdated by legislative mandate.

Summary of the New Rule(s) and/or Amendments: [No information supplied by agency.]

Reasons Which Support the Proposed Action(s): [No information supplied by agency.]

Person or Organization Proposing the Rule(s): SBE, government.

Agency Personnel Responsible for Drafting: Richard M. Wilson, SPI, 753-2298; Implementation and Enforcement: Doyle Winter, SPI, 753-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-140-042 RAP, GRADES SEVEN THROUGH NINE—APPLICABLE PROVISIONS.

WAC 392-140-043 RAP, GRADES SEVEN THROUGH NINE—DEFINITION—EDUCATIONALLY DEPRIVED.

WAC 392-140-044 RAP, GRADES SEVEN THROUGH NINE—DEFINITION—PLACEMENT TEST.

WAC 392-140-046 RAP, GRADES SEVEN THROUGH NINE—DEFINITION—SUPPLEMENTAL INSTRUCTIONAL ASSISTANCE.

WAC 392-140-047 RAP, GRADES SEVEN THROUGH NINE—DEFINITION—LIKE SERVICES.

WAC 392-140-048 RAP, GRADES SEVEN THROUGH NINE—DEFINITION—REMEDATION PROGRAM.

WAC 392-140-049 RAP, GRADES SEVEN THROUGH NINE—DEFINITION—ELIGIBLE STUDENTS.

WAC 392-140-050 RAP, GRADES SEVEN THROUGH NINE—DISTRICT APPLICATION.

WAC 392-140-051 RAP, GRADES SEVEN THROUGH NINE—BOARD APPROVAL.

WAC 392-140-052 RAP, GRADES SEVEN THROUGH NINE—CONTENT OF DISTRICT APPLICATION.

WAC 392-140-053 RAP, GRADES SEVEN THROUGH NINE—PROGRAM REQUIREMENT—NOTIFICATION OF PARENTS.

WAC 392-140-054 RAP, GRADES SEVEN THROUGH NINE—PROGRAM REQUIREMENT—ALLOWABLE EXPENDITURES.

WAC 392-140-055 RAP, GRADES SEVEN THROUGH NINE—PROGRAM REQUIREMENT—END OF YEAR REPORT.

WAC 392-140-056 RAP, GRADES SEVEN THROUGH NINE—PROGRAM REQUIREMENT—ANNUAL PROGRAM EVALUATION.

WAC 392-140-057 RAP, GRADES SEVEN THROUGH NINE—DEFINITION—DISTRICT 7-9 FTE ENROLLMENT.

WAC 392-140-058 RAP, GRADES SEVEN THROUGH NINE—DEFINITION—DISTRICT EIGHTH GRADE RAP PERCENTAGE.

WAC 392-140-059 RAP, GRADES SEVEN THROUGH NINE—DEFINITION—DISTRICT SPECIFIC LEARNING DISABLED ENROLLMENT FOR AGES TWELVE THROUGH FOURTEEN.

WAC 392-140-061 RAP, GRADES SEVEN THROUGH NINE—DEFINITION—DISTRICT GRADES SEVEN THROUGH NINE SERVICE POPULATION.

WAC 392-140-062 RAP, GRADES SEVEN THROUGH NINE—DEFINITION—GRADES SEVEN THROUGH NINE PER STUDENT SUPPORT LEVEL.

WAC 392-140-063 RAP, GRADES SEVEN THROUGH NINE—DISTRICT ALLOCATION.

WAC 392-140-064 RAP, GRADES SEVEN THROUGH NINE—DISTRIBUTION OF STATE MONEYS FOR THE STATE REMEDIATION ASSISTANCE PROGRAM GRADES SEVEN THROUGH NINE.

WAC 392-140-065 GENERAL PROVISION—CARRYOVER PROHIBITION.

WAC 392-140-066 GENERAL PROVISION—MAXIMUM CONTROL FACTOR—PRORATION.

WAC 392-140-085 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE—APPLICABLE PROVISIONS.

WAC 392-140-086 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE—PURPOSE.

WAC 392-140-087 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE—DEFINITION—ELIGIBLE DISTRICT AND CATEGORY.

WAC 392-140-088 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE—DEFINITION—REVISED LEAP DOCUMENT 7.

WAC 392-140-089 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE—DEFINITION—CERTIFICATED SALARY ENHANCEMENT ALLOCATION.

WAC 392-140-090 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE—DEFINITION—ADDITIONAL CERTIFICATED SALARY ENHANCEMENT ALLOCATION.

WAC 392-140-091 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE—DEFINITION—STATE-SUPPORTED PROGRAMS FOR PURPOSE OF ALLOCATIONS.

WAC 392-140-092 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE—DEFINITION—CERTIFICATED STAFF ACTUAL FULL-TIME EQUIVALENT SALARY.

WAC 392-140-093 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATION AND SALARY COMPLIANCE—DEFINITION—DISTRICT CERTIFICATED DERIVED BASE SALARY.

WAC 392-140-094 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE—DEFINITION—PRIOR SCHOOL YEAR CERTIFICATED STAFF ADJUSTED SALARY.

WAC 392-140-095 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE—DEFINITION—FORM SS-279.

WAC 392-140-096 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR CATEGORY A DISTRICT—REPORTING REQUIREMENTS.

WAC 392-140-097 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR CATEGORY A DISTRICT—MODIFICATION OF REVISED LEAP DOCUMENT 7.

WAC 392-140-098 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR CATEGORY A DISTRICT—CERTIFICATED SALARY ENHANCEMENT ALLOCATION.

WAC 392-140-099 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR CATEGORY A DISTRICT—MAXIMUM ALLOWED CERTIFICATED DERIVED BASE SALARY.

WAC 392-140-100 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATION AND SALARY COMPLIANCE FOR CATEGORY B DISTRICT—REPORTING REQUIREMENTS.

WAC 392-140-101 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR CATEGORY B DISTRICT—MODIFICATION OF REVISED LEAP DOCUMENT 7.

WAC 392-140-102 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR CATEGORY B DISTRICT—CERTIFICATED SALARY ENHANCEMENT ALLOCATION.

WAC 392-140-103 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR CATEGORY B DISTRICT—MAXIMUM ALLOWED CERTIFICATED DERIVED BASE SALARY.

WAC 392-140-104 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR CATEGORY C DISTRICT—REPORTING REQUIREMENTS.

WAC 392-140-105 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR CATEGORY C DISTRICT—MODIFICATION OF REVISED LEAP DOCUMENT 7.

WAC 392-140-106 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR CATEGORY C DISTRICT—CERTIFICATED SALARY ENHANCEMENT ALLOCATION BY MODIFYING REVISED LEAP DOCUMENT 7 TO \$16,500.

WAC 392-140-107 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR CATEGORY C DISTRICT—ADDITIONAL CERTIFICATED SALARY ENHANCEMENT ALLOCATION.

WAC 392-140-108 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR CATEGORY C DISTRICT—MAXIMUM ALLOWED CERTIFICATED DERIVED BASE SALARY.

WAC 392-140-109 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR CATEGORY D DISTRICT—REPORTING REQUIREMENTS.

WAC 392-140-110 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATION AND SALARY COMPLIANCE FOR CATEGORY D DISTRICT—MODIFICATION OF REVISED LEAP DOCUMENT 7.

WAC 392-140-111 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR CATEGORY D DISTRICT—ADDITIONAL CERTIFICATED SALARY ENHANCEMENT ALLOCATION.

WAC 392-140-112 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR CATEGORY D DISTRICT—MAXIMUM ALLOWED CERTIFICATED DERIVED BASE SALARY.

WAC 392-140-113 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE FOR ALL ELIGIBLE DISTRICTS—FRINGE BENEFIT ALLOCATION FOR SALARY ENHANCEMENT ALLOCATIONS.

WAC 392-140-114 1986-87 CERTIFICATED STAFF SALARY ENHANCEMENT ALLOCATIONS AND SALARY COMPLIANCE—OTHER STATE-SUPPORTED PROGRAM ALLOCATIONS.

WAC 392-140-115 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—APPLICABLE PROVISIONS.

WAC 392-140-116 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—PURPOSE.

WAC 392-140-117 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—APPLICATION OF THESE PROVISIONS.

WAC 392-140-118 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—DISTRICT SALARY SCHEDULE PLACEMENT.

WAC 392-140-119 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—SALARY CLASSIFICATION.

WAC 392-140-120 1986-87 ALTERNATE MEASURE FOR CLASSIFIED SALARY COMPLIANCE—DEFINITION—CHANGE IN CLASSIFIED STAFF COMPOSITION.

WAC 392-140-121 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—NEW POSITION.

WAC 392-140-122 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—RECLASSIFICATION.

WAC 392-140-123 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—EMPLOYEES WITH ADDITIONAL PRIOR YEARS OF EXPERIENCE IN OTHER SCHOOL DISTRICTS.

WAC 392-140-124 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—EMPLOYEES WITH OTHER ADDITIONAL PRIOR YEARS OF EXPERIENCE.

WAC 392-140-125 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—DISTRICT OBLIGATION.

WAC 392-140-126 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—FORM 1049.

WAC 392-140-127 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—REVISED LEAP DOCUMENT 7.

WAC 392-140-128 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—FORM S-277.

WAC 392-140-129 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—PRIOR SCHOOL YEAR CLASSIFIED YEARS OF EXPERIENCE.

WAC 392-140-130 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—PRIOR SCHOOL YEAR CLASSIFIED STAFF HIGHEST HOURLY RATE.

WAC 392-140-131 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—CLASSIFIED INCREMENT MIX FACTOR.

WAC 392-140-132 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—DISTRICT CLASSIFIED INCREMENT MIX FACTOR.

WAC 392-140-133 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—CURRENT SCHOOL YEAR DISTRICT CLASSIFIED DERIVED BASE SALARY.

WAC 392-140-134 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—ALTERNATE PRIOR SCHOOL YEAR DISTRICT CLASSIFIED INCREMENT MIX FACTOR.

WAC 392-140-135 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—PRIOR SCHOOL YEAR CLASSIFIED HIGHEST ANNUAL SALARIES.

WAC 392-140-136 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—BASIC EDUCATION DISTRICT CLASSIFIED IMPUTED DERIVED BASE SALARY.

WAC 392-140-137 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DEFINITION—DISTRICT CLASSIFIED STAFF PERSONNEL POLICY.

WAC 392-140-138 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—BOARD RESOLUTION WITH ESTIMATE OF DISTRICT OBLIGATION.

WAC 392-140-139 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—DISTRICT REQUEST.

WAC 392-140-140 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—CALCULATION FOR SALARY COMPLIANCE.

WAC 392-140-141 1986-87 ALTERNATE MEASURE FOR CLASSIFIED STAFF SALARY COMPLIANCE—REPORTING CYCLE AND PROCESS.

WAC 392-140-145 1987-89 MINIMUM SALARY ALLOCATIONS—APPLICABLE PROVISIONS.

WAC 392-140-146 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—SCHOOL YEAR.

WAC 392-140-147 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—CURRENT SCHOOL YEAR.

WAC 392-140-148 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—PRIOR SCHOOL YEAR.

WAC 392-140-149 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—CERTIFICATED INSTRUCTIONAL EMPLOYEE.

WAC 392-140-150 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—FORM F-275.

WAC 392-140-151 MINIMUM SALARY ALLOCATIONS—DEFINITION—CERTIFICATED INSTRUCTIONAL EMPLOYEE FULL-TIME EQUIVALENCY (FTE).

WAC 392-140-152 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—MINIMUM REQUIRED SALARY.

WAC 392-140-153 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—PRIOR SCHOOL YEAR ADJUSTED SALARY.

WAC 392-140-154 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—LEAP DOCUMENT 1.

WAC 392-140-155 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—LEAP DOCUMENT 11.

WAC 392-140-156 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—DISTRICT DERIVED BASE SALARY FOR PURPOSE OF APPORTIONMENT.

WAC 392-140-157 1987-89 MINIMUM SALARY ALLOCATIONS—DETERMINATION OF PERCENTAGE INCREASE IN THE DISTRICT DERIVED BASE SALARY.

WAC 392-140-158 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—ELIGIBLE EMPLOYEE.

WAC 392-140-159 1987-89 MINIMUM SALARY ALLOCATIONS—DETERMINATION OF MINIMUM SALARY ALLOCATIONS.

WAC 392-140-160 LOCAL EDUCATION PROGRAM ENHANCEMENT—APPLICABLE PROVISIONS.

WAC 392-140-161 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—STATEMENT OF ASSURANCES.

WAC 392-140-162 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—FULL-TIME EQUIVALENT STUDENT.

WAC 392-140-163 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—ANNUAL AVERAGE FULL-TIME EQUIVALENT STUDENTS.

WAC 392-140-164 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—BIENNIAL FULL-TIME EQUIVALENT STUDENTS.

WAC 392-140-165 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—SUPPORT LEVEL.

WAC 392-140-166 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—END OF YEAR REPORT.

WAC 392-140-167 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—NEEDS ASSESSMENT.

WAC 392-140-168 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—ELIGIBLE PROGRAMS.

WAC 392-140-169 LOCAL EDUCATION PROGRAM ENHANCEMENT—CONDITIONS FOR RECEIVING MONEYS.

WAC 392-140-170 LOCAL EDUCATION PROGRAM ENHANCEMENT—ALLOWABLE EXPENDITURES.

WAC 392-140-171 LOCAL EDUCATION PROGRAM ENHANCEMENT—PAYMENT OF LOCAL EDUCATION PROGRAM ENHANCEMENT FUNDS.

WAC 392-140-172 LOCAL EDUCATION PROGRAM ENHANCEMENT—PRORATION.

WAC 392-140-173 LOCAL EDUCATION PROGRAM ENHANCEMENT—END OF YEAR REPORT.

WAC 392-140-174 LOCAL EDUCATION PROGRAM ENHANCEMENT—CARRYOVER PROVISION.

WSR 89-14-037

ADOPTED RULES

BOARD FOR

COMMUNITY COLLEGE EDUCATION

[Order 116, Resolution No. 89-116—Filed June 29, 1989]

Be it resolved by the State Board for Community College Education, acting at Port Angeles, Washington, that it does adopt the annexed rules relating to tuition and fee charges made to students attending Washington community colleges.

This action is taken pursuant to Notice No. WSR 89-11-079 filed with the code reviser on May 23, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 28B.15-.502 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 22, 1989.

By Gilbert J. Carbone
Assistant Director

AMENDATORY SECTION (Amending Order 12, filed 7/22/71)

WAC 131-28-015 ASSESSMENT OF TUITION AND FEE CHARGES. It shall be the general policy of the Washington community college system that all tuition(~~(-operating fees,))~~ and services and activities fees, or special fees charged to students shall be assessed on a uniform and equitable basis, except when the requirement to pay all or part of such fees has been specifically waived or altered by law or by regulation of the state board or the district board of trustees.

AMENDATORY SECTION (Amending Order 94, Resolution No. 82-37, filed 10/26/82)

WAC 131-28-021 DEFINITIONS. For the purpose of WAC 131-28-025, the following definitions shall apply:

(1) "Resident student" and "nonresident student" shall be defined in the same manner as in chapter 28B.15 RCW.

(2) "Tuition(;-)" (~~"operating fees,"~~) and "services and activities fees" shall be defined in the same manner as in chapter 28B.15 RCW.

(3) "Special fees" shall be defined as all fees established by the district board of trustees other than tuition, operating fees or services and activities fees and as such shall include fees charged to an individual student for specific services and privileges received by such student.

(4) "~~(Community service)~~ Student funded course" shall be defined as any organized instructional activity, typically ungraded, primarily offered for part-time students, not normally an integral part of any specific study program leading to either an academic or an occupational degree or certificate, and specifically identified as such by a community college consistent with the course classification procedures established by the state board.

(5) "Academic or occupational course" shall be defined as all organized instructional activities other than ~~(community service)~~ student funded courses.

(6) "Short course" shall be defined as any academic, occupational, or ~~(community service)~~ student funded course not regularly scheduled in the quarterly announcement of courses, not routinely listed in the college catalog as a regular and normal part of the instructional program, and not normally of a full quarter in duration.

(7) "Regular course" shall be defined as any academic, occupational, or ~~(community service)~~ student funded course not classified as a short course.

(8) "Required course" shall be defined as any course specified in the college catalog or official curriculum description of any vocational preparatory program as necessary for completion of such program, except courses prerequisite to such program.

(9) "Vocational preparatory program" shall be defined as any planned series of learning experiences, the specific objective of which is to prepare persons to enter gainful employment in a recognized occupation not designated as professional or requiring a baccalaureate or higher degree, provided that such program has been approved by the state board.

AMENDATORY SECTION (Amending Order 94, Resolution No. 82-37, filed 10/26/82)

WAC 131-28-025 METHOD OF ASSESSING TUITION AND FEE CHARGES. (1) For academic and occupational regular or short courses, tuition and fees charged to students:

(a) Shall be based upon the number of credits assigned to such courses as listed in the official and current catalog of the college, or for courses not given such credit designations, the number of credit equivalents as computed by the method for deriving such equivalents established by the state board.

(b) Shall be assessed on a per-credit basis at uniform rates for resident and for nonresident students, provided:

That the respective maximums charged to any resident or nonresident student shall not exceed the amount specified in chapter 28B.15 RCW.

(c) Shall be assessed for part-time students, for each credit of registration or its equivalent, at the rate of one-tenth of the total combined tuition (~~and operating fees~~) and services and activities fees charged to full-time students consistent with chapter 28B.15 RCW.

(d) Shall include an additional (~~operating~~) fee for each credit in excess of eighteen at the rate of one-tenth of the (~~combined general~~) tuition (~~and operating fee~~) charged to full-time students consistent with chapter 28B.15 RCW, except that no such additional charges shall be assessed to a student enrolled in both a vocational preparatory program and a required course in that program as defined in WAC 131-28-021. This exemption shall require written approval by an appropriate college official.

(e) Shall be no less than two times the amount of (~~general~~) tuition (~~and operating fee~~) and services and activities fees charged for one credit.

(2) The provisions of this section shall not apply to the ungraded courses set forth in WAC 131-28-026.

(3) For ~~(community service)~~ student funded courses, fees charged to students:

(a) Shall be designated as a special fee, all revenue from which shall be used for the general operations and maintenance of the college;

(b) Shall be assessed at a rate sufficient to defray the direct and indirect costs of offering such community service courses.

(4) Nothing herein shall be construed to be a restriction on the right of the district board of trustees to assess additional noninstructional fees and special fees to cover unique instructional costs or expendable instructional materials related to any course offered by a college district.

AMENDATORY SECTION (Amending Order 94, Resolution No. 82-37, filed 10/26/82)

WAC 131-28-026 TUITION (~~AND FEE~~) CHARGES FOR CERTAIN UNGRADED COURSES. (1) When in the judgment of a district board of trustees certain courses should be designated as ungraded courses and offered by tuition (~~and fee~~) rates that differ from the standard rates set by WAC 131-28-025, the board of trustees may propose such designations and tuition (~~and fee~~) levels. Implementation of such proposals shall be contingent upon approval of the state director, who shall review such proposals with respect to the provisions of subsection (2) of this section and with respect to a general standard of system-wide consistency of tuition (~~and fee~~) charges when essentially similar services are provided.

(2) Ungraded courses designated pursuant to subsection (1) of this section shall meet the following qualifications:

(a) The primary intent of offering the course is other than providing academic credit applicable to an associate's or higher degree.

(b) The course has a specialized purpose in that it is intended to meet the unique educational needs of a specific category or group of students.

(c) The course is offered for the purpose of providing the individual student with a discrete skill or basic body of knowledge other than that intended to lead to initial employment.

(d) The course cannot be administered as a contract course pursuant to WAC 131-28-027, 131-32-010, or 131-32-020.

(e) The course is not offered primarily as an integral part of any lower-division curriculum or program.

(f) The course is not one specifically or primarily intended to satisfy requirements for receiving a high school diploma.

(3) For the purposes of this section, ungraded courses shall be defined as those courses classified according to the official course classification taxonomy established by the state board as occupational supplementary, occupational homemaking, academic basic education, or academic general education courses, provided they shall also meet the qualifications set forth in subsection (2) of this section.

(4) For the purpose of implementing WAC 131-28-025(2), the tuition (~~and fees~~), exclusive of special fees, charged by any Washington community college for the following ungraded courses shall be:

Course	Tuition		
	((Tuition)) Building Fee	Operating Fee	Services and Activities Fee
(a) Courses offered for the purpose of satisfying related or supplemental educational requirements for apprentices while indentured with the Washington state apprenticeship council or Federal Bureau of Apprenticeship and Training	\$1.40 per credit	\$3.60 per credit	No charge
(b) Department of labor and industries approved industrial first aid courses offered for the purpose of satisfying WISHA first aid certification requirements	Standard rate	Standard rate	No charge
(c) Parent education involving cooperative preschool program	The combined standard district charge per credit hour for tuition and operating fees less the preschool		No charge

Course	Tuition		
	((Tuition)) Building Fee	Operating Fee	Services and Activities Fee
	cooperative fee, with any remainder divided equally between tuition and operating fee		
(d) Farm management and small business management	Standard rate	Standard rate	No charge
(e) Adult basic education courses supported by federal funds and English as a second language courses funded from such sources	No charge	No charge	No charge
(f) Emergency medical technician	\$1.40 per credit	\$3.60 per credit	No charge
(g) Courses specifically designed to provide skills and understandings particularly related to the problems of retirement and advanced age	\$1.00 per credit hour	\$1.00 per credit hour	No charge

Course	Standard rate	Standard rate	No charge
	(h) Courses providing advanced training and skill maintenance for journeypersons in cooperation with local joint apprenticeship and training committees		

(5) Application of this section shall be subject to administrative procedures established by the state director with respect to maximum credit values of such ungraded courses, curriculum, or any unique circumstances related to enrollment in such courses.

(6) Tuition (~~(, operating fees,)~~) and services and activities fees received pursuant to this section shall be accounted for and deposited in conformance with the provisions of RCW 28B.50.360, 28B.15.031, and 28B.15.041 respectively.

(7) The term "standard rate" as used in this section shall mean the tuition (~~(and/or operating fees)~~) charged for one quarter credit.

AMENDATORY SECTION (Amending Order 94, Resolution No. 82-37, filed 10/26/82)

WAC 131-28-030 WAIVER OF TUITION AND FEES FOR NEEDY OR DISADVANTAGED STUDENTS. Pursuant to authority granted by RCW 28B.15.740, the boards of trustees of community college districts are authorized to waive all or part of (~~(general)~~) tuition (~~(, operating,)~~) and services and activities fees for needy students: PROVIDED, That the students shall qualify for such waiver as determined by the criteria set forth in WAC 131-28-040 through 131-28-045.

AMENDATORY SECTION (Amending Order 110, Resolution No. 86-42, filed 10/30/86)

WAC 131-28-040 CRITERIA FOR DETERMINING ELIGIBILITY FOR WAIVER OF TUITION AND FEES UNDER RCW 28B.15.740. Waiver of ((general)) tuition((,-operating,)) and services and activities fees, or any portions thereof as authorized by RCW 28B.15.740, normally charged to students enrolled shall be based upon the determination that the student is a needy student by application of a method of need analysis approved by the United States Department of Education for determining awards under federal student financial aid programs or one adopted by the state board for community college education specifically for the purposes of this section, except as provided in WAC 131-28-045.

AMENDATORY SECTION (Amending Order 110, Resolution No. 86-42, filed 10/30/86)

WAC 131-28-045 PROCEDURE FOR IMPLEMENTING TUITION AND FEE WAIVERS AUTHORIZED PURSUANT TO RCW 28B.15.740. (1) Tuition and fee waivers for needy students in any fiscal year as authorized by RCW 28B.15.740 may not exceed three percent of any college district's estimated total collections of tuition((,-operating,)) and services and activities fees had no such waivers been made, after deducting the portion of that total amount which is attributable to the difference between resident and nonresident tuition and fees.

(2) The estimated total collection of tuition and fees shall be based on budgeted, state supported, four-quarter annual average enrollment.

(3) Each district may waive an amount not to exceed three percent of the estimated collections in the event that actual enrollments or collections exceed estimated collections. Conversely, the three percent waiver capacity based upon estimated collections is allowable even though actual collections may not be as high as the estimate.

(4) Districts desiring to exceed their individual three percent waiver capacity may do so only upon written approval from the state director of community colleges or his designee. This waiver capacity can only be granted to a district after it has been determined that the total waiver capacity for the community college system is not being utilized as a result of other districts waiving at levels less than the three percent capacity.

(5) At least three-fourths of the total amount waived by any district shall be for needy students who are eligible to pay resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.015 and the remainder may be for other students as determined by the board of trustees, except that no such waivers shall be based on participation in intercollegiate athletic programs.

AMENDATORY SECTION (Amending Order 45, filed 9/12/75)

WAC 131-28-080 TUITION AND FEE WAIVERS FOR SENIOR CITIZENS. (1) Pursuant to the

authority granted by chapter 157, Laws of 1975 1st ex. sess., community college districts are authorized to and may waive, in whole or in part, tuition((,-operating,)) and services and activities fees for any individual who has or will have attained sixty years of age by the first day of instruction of the quarter during which enrollment is desired and who is a resident of Washington, regardless of the length of such residency.

(2) College districts that elect to grant waivers as authorized by this section may:

(a) Waive, in whole or in part, tuition((,-operating,)) and services and activities fees for students enrolled on a credit basis.

(b) Charge, in lieu of tuition((,-operating,)) and services and activities fees, a special fee of not more than \$5.00 per quarter per individual in total for those courses for which waivers are granted for students enrolled on an audit basis.

(c) Charge, in addition, any other special fees normally assessed to students who enroll in any course toward which the waiver authority contained in this section is applied.

(3) When granting waivers as authorized by this section, community college districts shall be subject to the following regulations:

(a) Senior citizens who desire to enroll under the provisions of this section shall not be required to pass any financial need or means test as the basis for receiving such waivers.

(b) Such waivers shall not be applied to more than two courses per individual per quarter; however, qualified senior citizens may enroll in additional courses upon payment of the required tuition and fees normally charged to other students so enrolled.

(c) Such waivers shall be granted only on a "space available" basis after opportunity has been given for other students to register for courses offered by the college district.

(d) No new or additional courses or course section shall be created for the purpose of accommodating enrollments of students enrolled on the basis of waivers under this section.

(e) Waivers under this section shall not be granted to individuals who plan to use credits thus earned to improve their status for credentialing or salary schedule purposes; provided that it shall be the responsibility of the student to inform the college of the intended use of credits earned through enrollment under this fee waiver authorization.

(f) Enrollment information and statistical data related to enrollments made under this section must be maintained separately and must be discretely identified and distinguished from enrollments reported to the state board for all fiscal purposes.

(g) Computations of enrollment levels, student-faculty ratios, or other similar enrollment-related statistics must exclude student credit hours generated by enrollments for which waivers have been granted under this section.

(h) Individuals enrolled under this section must be afforded equal opportunity to utilize advisory and counseling services offered by the college district.

(i) All existing course prerequisites must apply to students enrolled under this section.

AMENDATORY SECTION (Amending Order 102, Resolution No. 84-67, filed 12/13/84)

WAC 131-28-085 TUITION AND FEE WAIVERS FOR FULL-TIME COMMUNITY COLLEGE EMPLOYEES. Pursuant to the authority granted by RCW 28B.15.535, community college districts are authorized to and may waive tuition(~~(-operating-))~~ and services and activities fees for full-time employees at their respective institutions of higher education enrolled in courses at said institutions under the following conditions:

(1) Enrollment shall be on a space-available basis after opportunity has been given for other students to register for courses offered by the college,

(2) No new or additional courses or course sections shall be created for the purpose of accommodating enrollments of students enrolled on the basis of waivers under this section,

(3) Enrollment information on employees enrolled on a space-available basis shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall persons enrolled pursuant to the provisions of this section be considered in any enrollment statistics which would affect budgetary determinations,

(4) Computations of enrollment levels, student-faculty ratio, or other similar enrollment related statistics must exclude student credit hours generated by enrollments for which waivers have been granted under this section,

(5) Employees enrolling on a space-available basis shall be charged a registration fee of not less than five dollars per quarter,

(6) Community college districts may limit the number of courses per quarter for which an employee may enroll pursuant to this section,

(7) Districts may enroll full-time intercollegiate center for nursing education, cooperative extension service and agricultural research employees of Washington State University if such employees are stationed off-campus provided that (a) the employee's work station is situated within the district where he enrolls and (b) such a waiver of tuition and fees complies with conditions listed in subsections (1) through (6) of this section,

(8) Districts may recognize completion of such courses for salary improvement or vocational certification provided such courses are an approved part of the professional improvement plan of the individual,

(9) Prior to implementing any program for tuition and fee waivers for full-time employees, the college district shall adopt a written rule regarding such program and definitively set forth rules and procedures related to:

(a) Whether or not employees may take tuition free courses on released time and under what circumstances;

(b) Whether or not courses taken on a tuition free basis shall be allowed to apply toward an advancement on the salary schedule of the institution;

(c) Whether or not there will be a limit on the number of courses per quarter an employee may take; what that limitation is and any other constraints;

(d) The definition of a full-time employee, professional and classified, for purposes of this act;

(10) The individual community college district shall submit a copy of its adopted rule relating to the above to the state director.

AMENDATORY SECTION (Amending Order 100, Resolution No. 84-57, filed 10/23/84)

WAC 131-28-090 TUITION AND FEE WAIVERS FOR UNEMPLOYED AND UNDEREMPLOYED RESIDENT STUDENTS. (1) The purpose of this section is to carry out the intent of the legislature to provide tuition-free educational opportunities for unemployed and underemployed individuals who wish to attend a Washington community college on a space-available basis.

(2) Pursuant to authority granted by chapter 50, Laws of 1984, community college districts may waive, in whole or in part, tuition(~~(-operating-fees-))~~ and services and activities fees for any individual who:

(a) Is a resident student as defined by RCW 28B.15.012(2);

(b) Will have attained age twenty-one prior to the first day of instruction on the basis of such waiver;

(c) Has not attended an institution of higher education during the six-month period immediately prior to the first day of instruction, other than pursuant to this section;

(d) Is not receiving or eligible to receive unemployment compensation funded by federal, state matching, or trade readjustment benefit sources;

(e) Has a monthly household income below four hundred sixty-five dollars for a single person and an additional one hundred thirty dollars for each additional household member or the successor values to these amounts as may be subsequently established by the department of social and health services as need standards for assistance determination purposes;

(f) Has been or will have been unemployed for at least six months prior to the first day of instruction or is underemployed as evidenced by monthly income for the preceding six-month period below the level established in (e) of this subsection.

(3) Enrollments made pursuant to this section shall be on a space available basis.

(4) No new course sections shall be created as a result of enrollments based on waivers authorized by this section.

(5) Enrollment information on students registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor be considered in any enrollment statistics which would affect budgetary determinations.

(6) Persons enrolled pursuant to this section shall have the same access to support services as do all other students and shall be subject to all course prerequisites and requirements.

WSR 89-14-038
EMERGENCY RULES
STATE PATROL

[Order 89-02-RD—Filed June 29, 1989]

I, George B. Tellevik, director of the Washington State Patrol, do promulgate and adopt at the General Administration Building, AX-12, Olympia, Washington 98504, the annexed rules relating to Washington State Patrol criminal records, chapter 486, Laws of 1987 as amended by the 1989 legislative session.

I, George B. Tellevik, 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 the 1989 legislature amended chapter 486, Laws of 1987 and RCW 43.43.830 to require the agency to furnish transcripts of conviction records of crimes against children and other persons, disciplinary board final decisions and civil adjudications to certain businesses or organizations for specified purposes upon written request. These rules are adopted to implement the changes in the law.

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

This rule is promulgated pursuant to RCW 43.43.838, chapter 486, Laws of 1987 which directs that the Washington State Patrol has authority to implement the provisions of RCW 43.43.838, chapter 486, Laws of 1987.

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.

APPROVED AND ADOPTED June 29, 1989.

By George B. Tellevik
 Chief

AMENDATORY SECTION (Amending Order 88-03-A, filed 3/17/88)

WAC 446-20-285 EMPLOYMENT—CONVICTION RECORDS—CHILD AND ADULT ABUSE INFORMATION. After January 1, 1988, certain child and adult abuse conviction information will be furnished by the state patrol upon the submission of a written request of any applicant, business or organization, the state board of education, or the department of social and health services. This information will consist of the following:

(1) Convictions of crimes against children or other persons as defined in RCW 43.43.830(6);

(2) Department of licensing disciplinary board final decisions of specific findings of physical or sexual abuse or exploitation of a child and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision; and

(3) Civil adjudications of child abuse.

This information will be furnished, consistent with the provisions of chapter 486, Laws of 1987, on an approved request for criminal history information form available from the Washington State Patrol, P.O. Box 2527, Olympia, Washington, 98507-2527.

The state patrol shall also furnish any similar records maintained by the Federal Bureau of Investigation or records in custody of the National Crime Information Center, if available, subject to their policies and procedures regarding such dissemination.

(a) The business or organization making such request shall not make an inquiry to the Washington state patrol or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who has been offered a position as an employee or volunteer that an inquiry may be made.

(b) For positive identification, the request for criminal history information form may be accompanied by fingerprint cards of a type specified by the Washington state patrol identification section, and shall contain a certification by the business or organization; the state board of education; or the department of social and health services, that the information is being requested and will be used only for the purposes as enumerated in chapter 486, Laws of 1987.

(c) In the absence of fingerprint cards, the applicant may provide a right thumb fingerprint impression in the area provided on the request for criminal history information form. In the event of a possible match, where the applicant's name and date of birth as submitted varies from that of the record contained by the identification section, the right thumb fingerprint impression will be used for identification verification purposes only. An exact name and date of birth match will be required for dissemination of conviction information in the absence of a fingerprint card or thumbprint impression for positive identification or verification of record.

(d) After processing a properly completed request for criminal history information form, if the conviction record, disciplinary board final decision, adjudication record, or equivalent response from a federal law enforcement agency shows no evidence of crimes against persons, an identification declaring the showing of no evidence shall be issued to the applicant by the state patrol within fourteen ((calendar)) working days of receipt of the request. Possession of such identification shall satisfy future background check requirements for the applicant for a two-year period.

(e) The business or organization shall notify the applicant of the state patrol's response within ten calendar days after receipt by the business or organization. The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

(f) The business or organization shall be immune from civil liability for failure to request background information on a prospective employee or volunteer unless the failure to do so constitutes gross negligence.

WSR 89-14-039
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION
 [Filed June 29, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Transportation intends to adopt, amend, or repeal rules concerning adoption of chapter 468-100 WAC, Uniform relocation assistance and real property acquisition, to provide rules to comply with the revision to chapter 8.26 RCW;

that the agency will at 10:00 a.m., Monday, August 14, 1989, in the Boardroom, 1D2, Transportation Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is chapter 8.26 RCW.

The specific statute these rules are intended to implement is chapter 8.26 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 1, 1989.

Dated: June 29, 1989

By: Ed W. Ferguson
 Deputy Secretary

STATEMENT OF PURPOSE

Title: Chapter 468-100 WAC.

Description of Purpose: Adoption of chapter 468-100 WAC, Uniform relocation assistance and real property acquisition, to provide rules to comply with the revision to chapter 8.26 RCW.

Statutory Authority: Chapter 8.26 RCW.

Summary of Rule: Establishes a uniform policy for the fair and equitable treatment of persons displaced as a result of public works programs of the state and local governments. Expedites the acquisition of real property for public works programs and assures consistent treatment for owners affected by state and local programs.

Reason for Rule: This rule is necessary to establish procedures that must be followed when state and local governments acquire real property.

Agency Proposing Rule: Washington State Department of Transportation.

Department Personnel Responsible for Drafting and Implementation: Mr. Robert H. Barnard, Chief Right of Way Agent, Department of Transportation, Room 203, Transportation Building, Olympia, Washington 98504, (206) 753-6052.

Agency Comments or Recommendations: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: Yes, 49 CFR Part 24 (FHWA Docket No. 87-22) Uniform relocation assistance and real property acquisition regulations for federal and federally assisted programs.

Small Business Economic Impact Statement: The new law provides for reestablishment expenses for small businesses and increased moving benefits. No prior rights or benefits are diminished.

Chapter 468-100 WAC
UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

WAC

SUBPART A
GENERAL

- 468-100-001 Purpose and scope.
- 468-100-002 Definitions.
- 468-100-003 No duplication of payments.
- 468-100-004 Agency procedures, temporary relocation, monitoring, and corrective action.
- 468-100-005 Notices.
- 468-100-006 Administration of jointly funded projects.
- 468-100-007 Funding agency waiver of regulations.
- 468-100-008 Compliance with other laws and regulations.
- 468-100-009 Recordkeeping and reports.
- 468-100-010 Appeals.

SUBPART B
REAL PROPERTY ACQUISITION

- 468-100-101 Applicability of acquisition requirements.
- 468-100-102 Criteria for appraisals.
- 468-100-103 Review of appraisals.
- 468-100-104 Acquisition of tenant-owned improvements.
- 468-100-105 Certain litigation expenses.
- 468-100-106 Donations.

SUBPART C
GENERAL RELOCATION REQUIREMENTS

- 468-100-201 Purpose.
- 468-100-202 Applicability.
- 468-100-203 Relocation notices.
- 468-100-204 Availability of comparable replacement dwelling before displacement.
- 468-100-205 Relocation assistance planning, advisory services, and coordination.
- 468-100-206 Eviction for cause.
- 468-100-207 Claims for relocation payments.
- 468-100-208 Relocation payments not considered as income.

SUBPART D
PAYMENT FOR MOVING AND RELATED EXPENSES

- 468-100-301 Payment for actual reasonable moving and related expenses—Residential moves.
- 468-100-302 Fixed payment for moving expenses—Residential moves.
- 468-100-303 Payment for actual reasonable moving and related expenses—Nonresidential moves.
- 468-100-304 Fixed payment for moving expenses—Nonresidential moves.
- 468-100-305 Ineligible moving and related expenses.
- 468-100-306 Reestablishment expenses—Nonresidential moves.

SUBPART E
REPLACEMENT HOUSING PAYMENTS

- 468-100-401 Replacement housing payment for one hundred eighty-day homeowner-occupants.
- 468-100-402 Replacement housing payment for ninety-day occupants.
- 468-100-403 Additional rules governing replacement housing payments.

SUBPART F
MOBILE HOMES

- 468-100-501 Applicability.
- 468-100-502 Moving and related expenses—Mobile homes.
- 468-100-503 Replacement housing payment for one hundred eighty-day mobile home owner-occupants.
- 468-100-504 Replacement housing payments for ninety-day mobile home occupants.
- 468-100-505 Additional rules governing relocation payment to mobile home occupants.

SUBPART G
LAST RESORT HOUSING

- 468-100-601 Applicability.
- 468-100-602 Methods of providing replacement housing.

SUBPART A
GENERAL

NEW SECTION

WAC 468-100-001 PURPOSE AND SCOPE. (1) This chapter promulgates rules to implement chapter 8.26 RCW (Relocation assistance—Real property acquisition policy).

(2) Conflicts: In the event of any conflict between these regulations and the provisions of chapter 8.26 RCW or any other applicable law, the statutory provisions are controlling.

(3) Notwithstanding anything to the contrary in this chapter, any displacing agency, where otherwise authorized, may make any relocation assistance payment in an amount which exceeds the maximum amount for such payment authorized by this chapter, and may comply with regulations promulgated pursuant to other authority, if the making of such payment or compliance with such requirements is necessary under federal law or regulations to secure federal financial assistance.

NEW SECTION

WAC 468-100-002 DEFINITIONS. Certain terms used in this chapter are defined as follows:

(1) Agency: Means the state agency or local public agency which acquires the real property or displaces a person.

(2) Appraisal: Means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(3) Business: Means any lawful activity, except a farm operation, that is conducted:

(a) Primarily for the purchase, sale, lease, and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or

(b) Primarily for the sale of services to the public; or

(c) Solely for the purpose of WAC 468-100-303, conducted primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or

(d) By a nonprofit organization that has established its nonprofit status under applicable federal or state law.

(4) Comparable replacement dwelling: Means a dwelling which meets the additional rules in WAC 468-100-403 and which:

(a) Is decent, safe, and sanitary according to the definition in WAC 468-100-002(6).

(b) Is functionally similar to the displacement dwelling with particular attention to the number of rooms and living space.

(c) Is adequate in size to accommodate the occupants.

(d) Is located in an area that is not subject to unreasonable adverse environmental conditions, is not generally less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and is reasonably accessible to the person's place of employment. Comparables may be used from neighborhoods similar to that of the acquired dwelling.

(e) Has a site that is typical in size for residential development with normal site improvements, including customary landscaping. The replacement site need not include either a special improvement or a major exterior attribute of the displacement site in accordance with WAC 468-100-403 (1)(b).

(f) Is currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance.

(g) Is priced within the financial means of the displaced person.

(i) For a one hundred eighty-day owner-occupant described at WAC 468-100-401, a comparable dwelling is considered to be within the displacee's financial means.

(ii) For a ninety-day tenant-occupant described at WAC 468-100-402, a comparable dwelling is considered to be within the displacee's financial means if after application of the rental assistance payment, described in said section, the displacee's portion of the monthly rent plus utilities would be thirty percent or less of his total monthly income from all sources.

(iii) For a displaced person who is not eligible to receive a replacement housing payment under WAC 468-100-402 due to failure to meet the length of occupancy requirements, comparable housing is considered to be within the displacee's financial means if the acquiring

agency pays that portion of the monthly housing costs which would exceed thirty percent of the displacee's monthly income for forty-two months. Replacement housing payments would be paid under WAC 468-100-601.

(5) Contribute materially: Means that during the two taxable years prior to the taxable year in which displacement occurs, or during such other period as the agency determines to be more equitable, a business or farm operation:

(a) Had average annual gross receipts of at least five thousand dollars; or

(b) Had average annual net earnings of at least one thousand dollars; or

(c) Contributed at least thirty-three and one-third percent of the owner's or operator's average annual gross income from all sources.

(d) If the application of the above criteria creates an inequity or hardship in any given case, the agency may approve the use of other criteria as determined appropriate.

(6) Decent, safe, and sanitary (DSS) dwelling: Means a dwelling which meets applicable housing and occupancy codes. However, any of the following standards which are not met by an applicable code shall apply, unless waived for good cause by the agency funding the project. The dwelling shall:

(a) Be structurally sound, weathertight, and in good repair.

(b) Contain a safe electrical wiring system adequate for lighting and other electrical devices.

(c) Contain a heating system capable of sustaining a healthful temperature (of approximately seventy degrees) for a displaced person.

(d) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. There shall be a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator.

(e) Contains unobstructed egress to safe, open space at ground level. If the replacement dwelling unit is on the second story or above, with access directly from or through a common corridor, the common corridor must have at least two means of egress.

(f) For a displaced person who is handicapped, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person.

(7) Displaced person:

(a) General: Means any person who moves from the real property or moves his or her personal property from the real property:

(i) As a direct result of the agency's acquisition of, or the initiation of negotiation for, such real property in whole or in part for a project; or

(ii) As a direct result of a written order from the acquiring agency to vacate such real property for a project; or

(iii) As a direct result of the agency's acquisition of, or written order to vacate for a project, other real property on which the person conducts a business or farm operation; or

(iv) As a direct result of a voluntary transaction by the owner pursuant to WAC 468-100-101 (2)(a) thereby displacing a tenant.

(b) Persons not displaced: The following is a nonexclusive listing of persons who do not qualify as a displaced person under this chapter.

(i) A person who moves before the initiation of negotiations except one who is required to move for reasons beyond his or her control as explained in WAC 468-100-403(5); or

(ii) A person who initially enters into occupancy of the property after the date of its acquisition for the project; or

(iii) A person whom the agency determines is not required to relocate permanently as a direct result of a project; or

(iv) A person whom the agency determines is not displaced as a direct result of a partial acquisition; or

(v) A person who, after receiving a notice of relocation eligibility also receives a notice of noneligibility (described in WAC 468-100-203 (2)(b)); or

(vi) An owner who voluntarily sells his or her property pursuant to WAC 468-100-101 (2)(a) after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached, the agency will not acquire the property; or

(vii) A person who retains the right of use and occupancy of the real property for life following its acquisition by the agency; or

(viii) A person who retains the right of use and occupancy of the real property for a fixed term after its acquisition for a program or project receiving federal financial assistance from the Department of Interior; or

(ix) A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act; or

(x) A person who is determined to be in unlawful occupancy or a person who has been evicted for cause prior to the initiations of negotiations for the property.

(8) Dwelling: Means the place of permanent or customary and usual residence of a person, as determined by the agency according to local custom or law, including a single family house; a single family unit in a two-family, multifamily, or multipurpose property; a unit of a condominium or cooperative housing project; a nonhousekeeping unit; a mobile home; or any other fixed or installed residential unit other than a unit customarily used, and currently (although not necessarily immediately) capable of use, for transportation or recreational purposes.

(9) Farm operation: Means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(10) Financial assistance: Means any grant, loan, or contribution, except a federal guarantee or insurance.

(11) Initiation of negotiations: Means the date of delivery of the initial written offer by the agency to the owner or the owner's representative to purchase real property for a project for the amount determined to be just compensation, unless applicable agency program regulations specify a different action to serve this purpose. However:

(a) If the agency issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the "initiation of negotiations" means the date the person moves from the property. (See also WAC 468-100-505(3).)

(b) In the case of a permanent relocation to protect the public health and welfare under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Pub. L. 96-510, or "Superfund"), the "initiation of negotiations" means the formal announcement of such relocation or the federal or federally-coordinated health advisory where the federal government later decides to conduct a permanent relocation.

(12) Mortgage: Means any of such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the state in which the real property is located, together with the credit instruments, if any, secured thereby.

(13) Owner of displacement dwelling: A displaced person is considered to have met the requirement to own a displacement dwelling if the person holds any of the following interests in real property acquired for a project:

(a) Fee title, a life estate, a ninety-nine year lease, or a lease, including any options for extension, with at least fifty years to run from the date of acquisition; or

(b) An interest in a cooperative housing project which includes the right to occupy a dwelling; or

(c) A contract to purchase any of the interests or estates described in subsection (1) or (2) of this section; or

(d) Any other interests, including a partial interest, which in the judgment of the agency warrants consideration as ownership.

(14) Person: Means any individual, family, partnership, corporation, or association.

(15) Salvage value: Means the probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.

(16) Small business: Means any business having not more than five hundred employees working at the site being required or permanently displaced by a program or project.

(17) State: Means any department, commission, agency, or instrumentality of the state of Washington.

(18) Tenant: Means a person who has the temporary use and occupancy of real property owned by another.

(19) Uneconomic remnant: Means a parcel of real property in which the owner is left with an interest after the partial acquisition of the

owner's property, and which the acquiring agency has determined has little or no value.

(20) Uniform Act: Means the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601 et seq.; Pub. L. 91-646), and amendments thereto.

(21) Unlawful occupancy: A person is considered to be in unlawful occupancy when such person has been ordered to move by a court prior to the initiation of negotiations for the acquisition of the occupied property.

(22) Voluntary transaction: Means a donation, exchange, market sale, or other type of agreement entered into without compulsion on the part of the agency.

NEW SECTION

WAC 468-100-003 NO DUPLICATION OF PAYMENTS. No person is entitled to receive any payment under this chapter if that person receives a payment under federal, state, or local law which is determined to have the same purpose and effect as such payment under this chapter. The agency shall avoid creating a duplication based on information obtained by the agency at the time the agency approves a payment under this chapter.

NEW SECTION

WAC 468-100-004 AGENCY PROCEDURES, TEMPORARY RELOCATION, MONITORING, AND CORRECTIVE ACTION.

(1) Agency procedures: Prior to a state agency or local public agency commencement of any project phase that will result in real property acquisition or displacement that is subject to chapter 8.26 RCW, the agency shall prepare and adopt operating procedures. Such procedures shall (a) assure that the agency will comply with chapter 8.26 RCW and this chapter, (b) contain specific reference to any state law which the agency believes provides an exception to RCW 8.26.180, 8.26.190, or this chapter, (c) include appropriate provisions to carry out this chapter in a manner that minimizes the opportunity for, and/or the appearance of fraud, waste, and mismanagement, and (d) shall be prefaced by a certification that the agency will carry out its responsibilities for real property acquisition and relocation assistance in accordance with chapter 8.26 RCW and this chapter. A statement such as the following would satisfy the certification requirement:

"The agency certifies that the agency will comply with chapter 8.26 RCW and chapter 468-100 WAC in connection with the acquisition of real property for, and relocation of persons displaced by, a program or project of the agency."

The agency shall maintain a record copy of such procedures available for public review at any reasonable time and location.

(2) Temporary relocation: In the case of a person that will not be displaced but is required to relocate temporarily because of the project, the provisions of WAC 468-100-204(3) shall apply.

(3) Monitoring and corrective action: The funding agency will monitor compliance with this chapter, and the acquiring agency and/or displacing agency shall take whatever corrective action is necessary to comply with chapter 8.26 RCW and this chapter. The funding agency may also apply sanctions in accordance with applicable program regulations.

NEW SECTION

WAC 468-100-005 NOTICES. Notices which the agency is required to provide shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help. Notices shall be personally served or sent by registered or certified first-class mail return receipt requested and documented in the agency's files.

NEW SECTION

WAC 468-100-006 ADMINISTRATION OF JOINTLY FUNDED PROJECTS. Whenever two or more agencies provide financial assistance to an agency or agencies to carry out functionally or geographically related activities which will result in the acquisition of property or the displacement of a person, the funding agencies may by agreement designate one such agency as the cognizant agency. At a minimum, the agreement shall set forth the financially assisted activities which are subject to its terms and cite any policies and procedures,

in addition to this chapter, that are applicable to the activities under the agreement. Under the agreement, the cognizant agency shall assure that the project is in compliance with the provisions of chapter 8.26 RCW and this chapter. All financially assisted activities under the agreement shall be deemed a project for the purposes of this chapter.

NEW SECTION

WAC 468-100-007 FUNDING AGENCY WAIVER OF REGULATIONS. The agency funding the project may, on a case-by-case or project basis, waive any requirement in this chapter not required by law if it determines that the waiver does not reduce any assistance or protection provided to an owner or displaced person under this chapter. Any request for a waiver by an acquiring or displacing agency shall be justified on a case-by-case or project basis.

NEW SECTION

WAC 468-100-008 COMPLIANCE WITH OTHER LAWS AND REGULATIONS. The implementation of this chapter shall be in compliance with all applicable laws and implementing regulations, including the following:

- (1) Section I of the Civil Rights Act of 1866 (42 U.S.C. 1982 et seq.).
- (2) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).
- (3) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended.
- (4) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
- (5) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.).
- (6) Executive Order 12250 - Leadership and Coordination of Non-Discrimination Laws.
- (7) Executive Order 11063 - Equal Opportunity and Housing, as amended by Executive Order 12259.
- (8) Executive Order 11246 - Equal Employment Opportunity.
- (9) Executive Order 11625 - Minority Business Enterprise.
- (10) Executive Order 12259 - Leadership and Coordination of Fair Housing in Federal Programs.
- (11) The Flood Disaster Protection Act of 1973 (Pub. L. 93-234).
- (12) Executive Orders 11988, Floodplain Management, and 11990, Protection of Wetlands.
- (13) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

NEW SECTION

WAC 468-100-009 RECORDKEEPING AND REPORTS. (1) Records: The agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this chapter. These records shall be retained for at least three years after each owner of a property and each person displaced from a property receives the final payment to which the person is entitled under this chapter.

(2) Confidentiality of records: Records maintained by an agency in accordance with this chapter are confidential regarding their use as public information, unless applicable law provides otherwise.

(3) Reports: The agency shall submit a report of its real property acquisition and displacement activities under this chapter if required by the funding agency. A report will not be required more frequently than every three years, or as the Uniform Act provides, unless the funding agency shows good cause.

NEW SECTION

WAC 468-100-010 APPEALS. The displacing agency shall promptly review appeals in accordance with the requirements of applicable law and this chapter.

(1) Actions which may be appealed: A person may file written notice of an appeal with the displacing agency in any case in which the person believes that the agency has failed to properly determine the person's eligibility for, or the amount of, a payment required under WAC 468-100-106 or 468-100-107, or a relocation payment required under this chapter.

(2) Limitations: A person is entitled to only such benefits as are specifically delineated in this chapter.

(3) Form of notice: The displacing agency shall consider a written appeal regardless of form. The appeal notice or letter should state

what issues are being claimed, the reasons why the aggrieved person believes the claim should be allowed, and how the person believes he or she is otherwise aggrieved. The letter or notice should clearly identify the displacing agency's project and parcel of real property involved and should bear the signature and address of the aggrieved person or the person's authorized representative. The displacing agency may refuse to schedule any review or hearing on an appeal until these requirements have been complied with or may issue an order providing for dismissal of such appeal upon failure to comply within a reasonable time specified by the agency.

(4) Time limit for initiating appeal: The time limit shall be sixty days after the person receives written notification of the agency's determination on the person's claim.

(5) Right to representation: A person has a right to be represented by legal counsel or other representative in connection with the person's appeal, but solely at the person's own expense.

(6) Review of files by person making appeal: The displacing agency shall permit a person to inspect and copy all materials pertinent to the person's appeal, except materials which are classified as confidential by the agency. The agency may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

(7) Preliminary review authorized: In order to ensure consistent and uniform administration of the relocation assistance program, a displacing agency may establish an administrative review procedure for a preliminary review of all appeal notifications.

(8) Preliminary review notice: In the event of a preliminary review, the aggrieved person shall be given notice of such review and a reasonable time specified by the displacing agency to present any documents, written statements, or written evidence in support of the person's claim. Such review shall be accomplished promptly after receipt of appropriate notice by the aggrieved person. The agency shall notify the person of the decision resulting from the review and the person's right to be heard (a hearing) in the event the agency does not allow a claim, in whole or in part.

(9) Applicability of the Administrative Procedure Act:

(a) In accordance with RCW 8.26.010(3), the provisions of the Administrative Procedure Act (Title 34 RCW) regarding the resolution of contested cases shall be utilized as applicable by the head of the displacing agency in resolving any appeal filed pursuant to this section.

(b) References to "agency" in the Administrative Procedure Act shall be understood to mean "displacing agency" for the purposes of this chapter.

(10) Time and place of hearing: The hearing officer shall hold hearing within forty-five days following receipt from the displacing agency of the notice of appeal, and upon not less than twenty days' notice to the aggrieved person. Hearing shall be held in the county where the real property is located, or at such other location as may be agreed upon between the hearing officer and the aggrieved person. Failure to hold such hearing within the time specified herein, however, shall not affect the authority of the hearing officer, the necessity of the hearing, or the rights of the parties involved.

(11) Hearing process:

(a) Admissibility of evidence: Subject to the other provisions of this chapter, all relevant evidence is admissible which, in the opinion of the hearing officer, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. All pertinent justification and other material submitted by the person and obtained by the agency, and all other available information that is needed to ensure a fair and full review of the appeal, shall be considered, de novo (i.e., from the beginning, anew, afresh, a second time). Authorities pertinent to a review or hearing shall be matters of applicable law, including the displacing agency's procedures established pursuant to WAC 468-100-004(1) and the provisions of this chapter. In passing on the admissibility of evidence, the hearing officer shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the state of Washington.

(b) Subpoenas: Every subpoena shall state the name of the displacing agency and the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under the person's control at a specified time and place.

(c) Service: Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person and by tendering the person on demand the fees for one day's attendance and the mileage allowed by law.

(d) Proof of service: The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the displacing agency or the hearing officer before whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the displacing agency and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.

(e) Quashing: Upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance, by the person to whom the subpoena was issued, any party may:

(i) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue; or

(ii) Condition denial of the motion upon just and reasonable conditions.

(f) Scope – Geographical: Such attendance of witnesses and such production of evidence may be required from any place in the state of Washington, at any designated place of hearing.

(g) Depositions and interrogatories: Except as may be otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding, except that leave must be obtained if notice of the taking is served by a proponent within twenty days after the filing of a notice of appeal. The attendance of witnesses may be compelled by the use of a subpoena. Depositions shall be taken only in accordance with this regulation and the regulation on subpoenas.

(h) Scope (relevance): Unless otherwise ordered, the deponent may be examined regarding any matter not privileged, which is relevant to the subject matter involved in the proceeding.

(i) Protection of parties and deponents: A party desiring to take a deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to all parties. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. On motion of a party upon whom the notice is served, the hearing officer may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions. After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the hearing officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or any other order which justice requires.

(j) Recordation – Objections: The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under the officer's direction and in the officer's presence, record the testimony. Objections to notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived.

(k) Signing attestation and returns: When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefore; and the deposition may then be used as fully as though signed, unless on a motion to suppress, the hearing officer holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(l) Use and effect – Certification: The officer shall certify on the deposition that the witness was duly sworn by the officer and that the deposition is a true record of the testimony given by the witness. The

officer shall then securely seal the deposition in an envelope endorsed with the title of proceeding and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the designated hearing officer, for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges therefore, the officer shall furnish a copy of the deposition to any party or to the deponent.

Subject to rulings by the hearing officer upon objections a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the hearing officer upon the hearing officer's own motion or the motion of any party. Except by agreement of the parties or ruling of the hearing officer, a deposition will be received only in its entirety. A party does not make a second party, or the privy of a second party, or any hostile witness the party's witness by taking the second party's deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by the party or any other party.

(m) Depositions upon interrogatories: Where the deposition is taken upon written interrogatories, the party offering the testimony shall separately and consecutively number each interrogatory and file and serve them with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom they are to be taken. Within ten days thereafter a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five days thereafter, the latter may serve redirect interrogatories upon the party who served cross-interrogatories.

(n) Official notice – Matters of law: The hearing officer, upon request made before or during a hearing, will officially notice:

(i) Federal law: The Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and official publications;

(ii) State law: The Constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions of administrative agencies of the state of Washington, executive orders and proclamations by the governor; and all rules, orders and official publications;

(iii) Governmental organization: Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, and several states and foreign nations;

(iv) Agency organization: The department, commission or board organization, administration, officers, personnel, and official publications.

(o) Record: The record on any appeal shall consist of the decision or order appealed from the notice of appeal therefrom, responsive pleadings, if any, and notices of appearances, and any other written applications, motions, briefs, stipulations or requests duly filed by any party. Such record shall also include all depositions, the transcript of testimony and argument and other proceedings at the hearing, together with all exhibits offered. No part of the records of the displacing agency or other documents shall be made part of the record unless admitted in evidence.

(12) Submission of proposed decision: The hearing officer shall, within thirty days after completion of the hearing and record, prepare in writing a proposed decision containing findings and conclusions as to each contested issue of fact. The hearing officer shall file the original, signed by the officer, with the head of the displacing agency and mail, by certified or registered first class mail, a copy to each aggrieved person who is a party to the appeal and to the party's attorney or representative of record.

(13) Exception – Time for filing: Within twenty days, or such further period as the hearing officer may allow, any party to the appeal may file with the hearing officer, a written statement of exceptions to the proposed decision of the hearing officer.

(14) Reply to exceptions: Any party may, within fifteen days after the filing of an exception by an adverse party, submit a reply to exceptions, a written brief, or a statement of position regarding the matters on which exceptions were taken. In such instances, a copy of the transcript of testimony and other proceedings of the hearing shall be made available to the parties.

(15) Submission of record and issuance of final decision and order: The entire record, including all exhibits and proposed findings of fact, conclusions of law, and decision together with all exceptions and replies to exceptions, shall be submitted to the head of the displacing agency. Upon receipt of the entire record, the head of the displacing agency, in a manner consistent with RCW 34.04.110, shall consider

the same and may either adopt, modify, or reject the proposed findings of fact, conclusions of law, and decision, and shall issue the final decision and order of the displacing agency. Such decision and order shall be made promptly after receipt of the entire record.

If the full relief requested is not granted, the agency shall advise the person of the person's right to seek judicial review.

(16) Official to review appeal: The official conducting a review of an appeal shall not have been directly involved in the action appealed and shall be either the head of the agency, that person's authorized designee, or as otherwise required by applicable law.

SUBPART B REAL PROPERTY ACQUISITION

NEW SECTION

WAC 468-100-101 APPLICABILITY OF ACQUISITION REQUIREMENTS. General:

(1) Except as provided in subsection (2) of this section, the requirements of RCW 8.26.180 through 8.26.200 apply to any agency acquisition of real property for a program or project where the agency's program or project is carried out under threat of eminent domain including amicable agreements. Whether or not the acquiring agency has or intends to use the power of eminent domain, the requirements of RCW 8.26.180 through 8.26.200 apply to any project or program where there is an intended, planned, or designated project area, and all, or substantially all, of the property within that area is eventually intended to be acquired.

(2) Provided it does not conflict with subsection (1) of this section, an agency may determine that the requirements of RCW 8.26.180 through 8.26.200 do not apply to:

(a) Voluntary transactions (defined in WAC 468-100-002(22)) if all of the following conditions are present:

(i) No specific site or property needs to be acquired, although the agency may limit its search for alternative sites to a general geographic area.

(ii) The property to be acquired is not part of an intended, planned, or designated project area where all, or substantially all, of the property within the area is eventually to be acquired.

(iii) The agency will not acquire the property in the event negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

(b) The acquisition of real property from a federal, state, or local public agency, if the acquiring agency does not have the authority to acquire the property through condemnation.

(3) In those situations where an agency wishes to purchase more than one site within a geographic area on a "voluntary transaction" basis, all owners shall be treated similarly.

NEW SECTION

WAC 468-100-102 CRITERIA FOR APPRAISALS. (1) Standards of appraisal: The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. The agency shall develop minimum standards for appraisals consistent with established and commonly accepted appraisal practice for those acquisitions which, by virtue of their low value or simplicity, do not require the in-depth analysis and presentation necessary in a detailed appraisal. A detailed appraisal shall be prepared for all other acquisitions. A detailed appraisal shall reflect nationally recognized appraisal standards. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support the appraiser's opinion of value. At a minimum, the appraisal shall contain the following items:

(a) The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.

(b) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), a statement of the known and observed encumbrances if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a five-year sales history of the property.

(c) All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. When sufficient market sales data are available to reliably support the fair market value for the specific appraisal problem encountered, the agency, at its discretion, may require only the market approach. If more than one

approach is utilized, there shall be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value.

(d) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.

(e) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property.

(f) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

(2) Influence of the project on just compensation. To the extent permitted by applicable law, the appraiser in his "before" valuation shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to the physical deterioration within the reasonable control of the owner.

(3) Owner retention of improvements: If the owner of a real property improvement agrees and is permitted to obtain the right to remove it in whole or in part from the project site, the amount to be offered for the interest in the real property to be acquired shall be the amount determined to be just compensation for the owner's entire interest in the real property. The salvage value (defined in WAC 468-100-002(15)) of the improvement to be removed shall be deducted from the agency's payment.

(4) Qualifications of appraisers: The agency shall establish criteria for determining the minimum qualifications of appraisers. Appraiser qualifications shall be consistent with the level of difficulty of the appraisal assignment. The agency shall review the experience, education, training, and other qualifications of appraisers, including review appraisers, and utilize only those determined to be qualified.

(5) Conflict of interest: No appraiser or review appraiser shall have any interest, direct or indirect, in the real property being appraised for the agency that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation. No appraiser shall act as a negotiator for real property which that person has appraised, except that the agency may permit the same person to both appraise and negotiate an acquisition where the value of the acquisition is two thousand five hundred dollars, or less.

NEW SECTION

WAC 468-100-103 REVIEW OF APPRAISALS. The agency shall have an appraisal review process and, at a minimum:

(1) A qualified reviewing appraiser shall examine all appraisals to assure that they meet applicable appraisal requirements and shall, prior to acceptance, seek necessary corrections or revisions. The qualifications of the appraiser for each case depend on the complexity of the appraisal problem. The review appraiser shall determine whether the appraiser's documentation, including valuation data and analyses of that data, demonstrates the soundness of the appraiser's opinion of value.

(2) If the reviewing appraiser is unable to approve or recommend approval of an appraisal as an adequate basis for the estimate of just compensation, and it is determined that it is not practical to obtain an additional appraisal, the reviewing appraiser may develop appraisal documentation in accordance with WAC 468-100-102 to support an approved or recommended value. The agency may determine whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report(s) on the property.

(3) The review appraiser's certification of the recommended or approved value of the property shall be set forth in a signed statement which identifies the appraisal reports reviewed and explains the basis for such recommendation or approval. Any damages or benefits to any remaining property shall also be identified in the statement. The level of explanation by the review appraiser depends on the complexity of the appraisal problem. The agency may accept a simple approval endorsement by the review appraiser in the case of a low value property requiring an uncomplicated valuation process.

NEW SECTION

WAC 468-100-104 ACQUISITION OF TENANT-OWNED IMPROVEMENTS. (1) Acquisition of improvements: When acquiring any interest in real property, the agency shall offer to acquire at

least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired or which the agency determines will be adversely affected by the use to which such real property will be put. This shall include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.

(2) Improvements considered to be real property:

Any building, structure, or other improvement, which would be considered to be real property if owned by the owner of the real property on which it is located, shall be considered to be real property for purposes of WAC 468-100-101 through 468-100-106.

(3) Appraisal and establishment of just compensation for tenant-owned realty improvements: Just compensation for a tenant-owned realty improvement is the amount which the improvement contributes to the fair market value of the whole property or its salvage value, whichever is greater. (Salvage value is defined in WAC 468-100-002(15).)

(4) Special conditions: No payment shall be made to a tenant-owner to acquire any real property improvement or relocate any tenant-owned real estate fixture unless:

(a) The owner of the real property on which the improvement is located disclaims all interest in the tenant's realty improvement or fixture; and

(b) The tenant-owner, in consideration for the acquisition payment, assigns, transfers, and releases to the agency all of the tenant-owner's right, title, and interest in the realty improvement; and

(c) The payment does not result in the duplication of any compensation otherwise authorized by law.

(5) Alternative compensation: Nothing in WAC 468-100-101 through 468-100-106 shall be construed to deprive the tenant-owner of any right to reject payment under WAC 468-100-101 through 468-100-106 and to obtain payment for such property interests in accordance with other applicable law.

NEW SECTION

WAC 468-100-105 CERTAIN LITIGATION EXPENSES. The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, and expert witness fees, which the owner actually incurred because of a condemnation proceeding; pursuant to RCW 8.25.020 and 8.25.075.

NEW SECTION

WAC 468-100-106 DONATIONS. Nothing in this chapter shall prevent a person, after being informed of the right to receive just compensation based on an appraisal of the real property, from making a gift or donation of real property or any part thereof, or any interest therein, or of any compensation paid therefor, to the agency. The agency shall obtain an appraisal of the real property and offer the full amount of just compensation due unless the owner, after being fully informed of such policy, releases the agency from these obligations. An appraisal is not required if the agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the fair market value is estimated at two thousand five hundred dollars or less, based on a review of available data.

SUBPART C GENERAL RELOCATION REQUIREMENTS

NEW SECTION

WAC 468-100-201 PURPOSE. WAC 468-100-201 through 468-100-208 prescribes general requirements governing the provision of relocation payments and other relocation assistance under the regulations in this chapter.

NEW SECTION

WAC 468-100-202 APPLICABILITY. These requirements apply to the relocation of any displaced person as defined in WAC 468-100-002(7).

NEW SECTION

WAC 468-100-203 RELOCATION NOTICES. Written notices shall be furnished as required by WAC 468-100-005.

(1) General relocation information notice: As soon as feasible, a person scheduled to be displaced shall be furnished with a general

written description of the agency's relocation program which does at least the following:

(a) Informs the person that the person may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s).

(b) Informs the person that the person will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the person successfully relocate.

(c) Informs the person that the person will not be required to move without at least ninety days' advance written notice (see subsection (3) of this section), and informs any person to be displaced from a dwelling that the person cannot be required to move permanently unless at least one comparable replacement dwelling has been made available.

(d) Describes the person's right to appeal the agency's determination as to eligibility for, or the amount of, any relocation payment for which the person may be eligible.

(2) Notice of relocation eligibility:

(a) Eligibility for relocation assistance shall begin on the date of initiation of negotiations (defined in WAC 468-100-002(11)) for the occupied property. When this occurs, the agency shall promptly provide written notice to all occupants to be displaced of their eligibility for applicable relocation assistance in accordance with WAC 468-100-005.

(b) An occupant may subsequently be provided a notice of noneligibility if the agency determines the person will not be displaced. Such notice may be issued only if the person has not moved and the agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility.

(3) Ninety-day notice:

(a) General: No lawful occupant shall be required to move unless the occupant has received at least ninety days advance written notice of the earliest date by which he or she may be required to move.

(b) Timing of notice: The displacing agency may issue the notice ninety days before it expects the person to be displaced or earlier.

(c) Content of notice: The ninety-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least thirty days in advance, the specific date by which the occupant must move. If the ninety-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than ninety days after such a dwelling is made available. (See WAC 468-100-204(1).)

(d) Urgent need: In unusual circumstances, an occupant may be required to vacate the property on less than ninety days advance written notice if the agency determines that a ninety-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety. A record of the agency's determination shall be included in the applicable case file.

NEW SECTION

WAC 468-100-204 AVAILABILITY OF COMPARABLE REPLACEMENT DWELLING BEFORE DISPLACEMENT. No person to be displaced shall be required to move from the person's dwelling unless at least one comparable replacement dwelling (defined in WAC 468-100-002(4)) has been made available to the person.

(1) Policy: Three or more comparable replacement dwellings shall be made available unless such numbers are not available on the local housing market. When otherwise feasible, in accordance with WAC 468-100-205 (3)(b)(iii) and 468-100-403 (1)(d), comparable replacement dwellings to be made available to minority persons may include dwellings not located in an area of minority concentration. A comparable replacement dwelling will be considered to have been made available to a person, if:

(a) The person is informed of its location; and

(b) The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and

(c) Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

(2) Circumstances permitting waiver: The funding agency may grant a waiver of the policy in subsection (1) of this section in any case where it is demonstrated that a person must move because of:

(a) A major disaster as defined in section 102(c) of the Disaster Relief Act of 1974 (42 U.S.C. 5121); or

(b) A presidentially declared national emergency; or

(c) Another emergency which requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

(3) Basic conditions of emergency move: Whenever a person is required to relocate for a temporary period because of an emergency as described in subsection (2) of this section, for purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily-occupied dwelling. The agency shall:

(a) Take whatever steps are necessary to assure that the person is temporarily relocated to a sanitary dwelling;

(b) Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in monthly housing costs incurred in connection with the temporary relocation;

(c) Make available to the displaced person as soon as feasible, at least one comparable replacement dwelling.

(d) The person is entitled to be heard according to WAC 468-100-010 in the event of a grievance.

NEW SECTION

WAC 468-100-205 RELOCATION PLANNING, ADVISORY SERVICES, AND COORDINATION. (1) Relocation planning: During the early stages of development, state and federal-aid programs or projects shall be planned in such a manner that the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations are recognized and solutions are developed to minimize the adverse impacts of displacement. Such planning, where appropriate, shall precede any action by an agency which will cause displacement, and should include an evaluation of program resources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study which may include the following:

(a) An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and the handicapped when applicable.

(b) An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that may be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, consideration of last resort housing actions should be instituted.

(c) An estimate of the number, type and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees that may be affected.

(d) Consideration of any special relocation advisory services that may be necessary from the displacing agency and other cooperating agencies.

(2) Relocation assistance advisory services, general: The agency shall carry out a relocation assistance advisory program which satisfies the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), and Executive Order 11063 (27 FR 11527), and offers the services described in subsection (3) of this section. If the agency determines that a person occupying property adjacent to the real property acquired for the project is caused substantial economic injury because of such acquisition, it may offer the services to such person.

(3) Services to be provided: The advisory program shall include such measures, facilities, and services as may be necessary or appropriate in order to:

(a) Determine the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each person.

(b) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in WAC 468-100-204(1).

(i) As soon as feasible, the agency shall inform the person in writing of the specific comparable replacement dwelling and the price or rent

used for establishing the upper limit of the replacement housing payment (see WAC 468-100-403 (1) and (2)) and the basis for the determination, so that the person is aware of the maximum replacement housing payment for which the person may qualify.

(ii) Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. (See WAC 468-100-002 (4) and (6).) If such an inspection is not made, the person to be displaced shall be notified that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be DSS.

(iii) Whenever possible, minority persons shall be given reasonable opportunities to relocate to DSS replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require an agency to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.

(iv) All displaced persons, especially the elderly and handicapped, shall be offered transportation to inspect housing to which they are referred.

(c) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable and suitable commercial and farm properties and locations. Assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.

(d) Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate.

(e) Supply persons to be displaced with appropriate information concerning federal and state housing programs, disaster loans and other programs administered by the Small Business Administration, and other federal, state, and local programs offering assistance to persons to be displaced.

(f) Any person who occupies property acquired by an agency, when such occupancy began subsequent to the acquisition of the property, and the occupancy is permitted by a short-term rental agreement or an agreement subject to termination when the property is needed for a program or project, shall be eligible for advisory services, as determined by the agency.

(4) Coordination of relocation activities: Relocation activities shall be coordinated with project work and other displacement-causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment and the duplication of functions is minimized.

NEW SECTION

WAC 468-100-206 EVICTION FOR CAUSE. Eviction for cause must conform to applicable state and local law. Any person who has lawfully occupied the real property, but who is later evicted for cause on or after the date of the initiation of negotiations, retains the right to the relocation payments and other assistance set forth in these regulations. For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves or the date a comparable replacement dwelling is made available, whichever is later. This section applies only if the agency had intended to displace the person.

NEW SECTION

WAC 468-100-207 CLAIMS FOR RELOCATION PAYMENTS. (1) Documentation: Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as, bills, certified prices, appraisals, or other evidence of such expenses. Payment for a low cost or uncomplicated move may be made without documentation of actual costs when payment is limited to the amount of the lowest acceptable bid or estimate obtained by the agency. A displaced person must be provided reasonable assistance necessary to complete and file any required claim for payment.

(2) Expeditious payments: The agency shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

(3) Advance payments: If a person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the agency shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

(4) Time for filing: All claims for a relocation payment shall be filed with the agency within eighteen months after:

- (a) For tenants, the date of displacement;
- (b) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

This time period shall be waived by the agency for good cause.

(5) Multiple occupants of one displacement dwelling: If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

(6) Deductions from relocation payments: An agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. Similarly where such a deduction would not prevent the displaced person from obtaining a comparable replacement dwelling as required by WAC 468-100-204, an agency may, deduct from relocation payments any rent that the displaced person owes the agency. The agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

(7) Notice of denial of claim: If the agency disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

NEW SECTION

WAC 468-100-208 RELOCATION PAYMENTS NOT CONSIDERED AS INCOME. No payment received by a displaced person under this chapter may be considered as income for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any state law or for the purposes of any income tax or any tax imposed under Title 82 RCW, and the payments shall not be deducted from any amount to which any recipient would otherwise be entitled under Title 74 RCW.

SUBPART D

PAYMENT FOR MOVING AND RELATED EXPENSES

NEW SECTION

WAC 468-100-301 PAYMENT FOR ACTUAL REASONABLE MOVING AND RELATED EXPENSES—RESIDENTIAL MOVES. Any displaced owner—occupant or tenant of a dwelling who qualifies as a displaced person (defined in WAC 468-100-002(7)) is entitled to payment of the person's actual moving and related expenses, as the agency determines to be reasonable, including expenses necessary to:

- (1) Disconnect, dismantle, and remove displaced personal property.
- (2) Pack displaced personal property.
- (3) Transport displaced personal property within fifty miles. The agency may authorize transportation costs of a distance beyond fifty miles based on economic feasibility of the available choices of replacement locations, but not on the displacee's subjective preferences.
- (4) Store personal property for a period not to exceed twelve months, unless the agency determines a longer period is necessary.
- (5) Unpack relocated personal property.
- (6) Reassemble, reinstall, and reconnect relocated personal property.
- (7) Insure for the replacement value of personal property in connection with the move; or where insurance covering loss, theft, or damage in the process of moving (not through fault or negligence of the displaced person or the person's agent, or employee) is not reasonably available, pay the replacement value for such loss, theft, or damage.
- (8) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- (9) Reimburse other moving—relating expenses that are not listed as ineligible under WAC 468-100-305, as the agency determines to be reasonable and necessary.

NEW SECTION

WAC 468-100-302 FIXED PAYMENT FOR MOVING EXPENSES—RESIDENTIAL MOVES. Any person displaced from a dwelling or a seasonal residence, is entitled to receive a fixed payment in lieu of a payment for actual moving and related expenses covered under WAC 468-100-301. This allowance shall be determined according to the applicable schedule approved by the lead agency, except that the expense and dislocation allowance to a person occupying a furnished one-room unit shared by more than one other person involving a minimum of personal property to be moved, shall be limited to fifty dollars.

NEW SECTION

WAC 468-100-303 PAYMENT FOR ACTUAL REASONABLE MOVING AND RELATED EXPENSES—NONRESIDENTIAL MOVES. (1) Eligible costs. Any business or farm operation which qualifies as a displaced person (defined in WAC 468-100-002(7)) is entitled to payment for such actual moving and related expenses, as the agency determines to be reasonable and necessary, including expenses for:

(a) Transportation of personal property. Transportation costs for a distance beyond fifty miles are not eligible, unless the agency determines that relocation beyond fifty miles is justified.

(b) Packing, crating, unpacking, and uncrating of the personal property.

(c) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property described in WAC 468-100-303 (1)(l). This includes connection to utilities available nearby. It also includes modifications to the personal property necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property. (Expenses for providing utilities from the right-of-way to the building or improvement are excluded.)

(d) Storage of the personal property for a period not to exceed twelve months, unless the agency determines that a longer period is necessary.

(e) Insurance for the replacement value of the personal property in connection with the move and necessary storage.

(f) Any license, permit, or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, or certification.

(g) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

(h) Professional services necessary for:

(i) Planning the move of the personal property;

(ii) Moving the personal property; and

(iii) Installing the relocated personal property at the replacement location.

(i) Relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

(j) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

(i) The fair market value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling price.); or

(ii) The estimated cost of moving the item, but with no allowance for storage. (If the business or farm operation is discontinued, the estimated cost shall be based on a moving distance of fifty miles.)

(k) The reasonable cost incurred in attempting to sell an item that is not to be relocated.

(l) Purchase of substitute personal property. If an item of personal property which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

(i) The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or

(ii) The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

(m) Searching for a replacement location. A displaced business or farm operation is entitled to reimbursement for actual expenses, not to exceed one thousand dollars, as the agency determines to be reasonable, which are incurred in searching for a replacement location, including:

(i) Transportation;

(ii) Meals and lodging away from home;

(iii) Time spent searching, based on reasonable salary or earnings;

(iv) Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site.

(n) Other moving-related expenses that are not listed as ineligible under WAC 468-100-305, as the agency determines to be reasonable and necessary.

(2) Notification and inspection. The following requirements apply to payments under this section:

(a) The agency shall inform the displaced person in writing, of the requirements of (b) and (c) of this subsection, as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided to the displaced person as set forth in WAC 468-100-203.

(b) The displaced person must provide the agency reasonable advance written notice of the approximate date of the start of the move or disposition of the personal property and a list of the items to be moved. However, the agency may waive this notice requirement after documenting its file accordingly.

(c) The displaced person must permit the agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

(3) Self-move. If the displaced person elects to take full responsibility for the move of the business or farm operation, the agency may make a payment for the person's moving expenses in an amount not to exceed the lower of two acceptable bids or estimates obtained by the agency or prepared by qualified staff. At the agency's discretion, a payment for a low cost or uncomplicated move may be based on a single bid or estimate.

(4) Transfer of ownership. Upon request and in accordance with applicable law, the claimant shall transfer to the agency ownership of any personal property that has not been moved, sold, or traded in.

(5) Advertising signs. The amount of a payment for direct loss of an advertising sign which is personal property shall be the lesser of:

(a) The depreciated reproduction cost of the sign, as determined by the agency, less the proceeds from its sale; or

(b) The estimated cost of moving the sign, but with no allowance for storage.

NEW SECTION

WAC 468-100-304 FIXED PAYMENT FOR MOVING EXPENSES—NONRESIDENTIAL MOVES. (1) Business: A displaced business, defined in WAC 468-100-002(3), may be eligible to choose a fixed payment in lieu of a payment for actual moving and related expenses, and actual reasonable reestablishment expenses provided by WAC 468-100-303 and 468-100-306. The payment except for payment to a nonprofit organization, shall equal the average annual net earnings of the business, as computed in accordance with subsection (5) of this section, but not less than one thousand dollars nor more than twenty thousand dollars. The displaced business is eligible for the payment if the agency determined that:

(a) The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move; and, the business vacates or relocates from its displacement site; and

(b) The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the agency demonstrates that it will not suffer a substantial loss of its existing patronage; and

(c) The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the agency, and which are under the same ownership and engaged in the same or similar business activities.

(d) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others; and

(e) The business is not operated at the displacement site solely for the purpose of renting the site to others; and

(f) The business contributed materially (defined in WAC 468-100-002(3)) to the income of the displaced person during the two taxable years prior to displacement.

(2) Determining the number of businesses: In determining whether two or more displaced legal entities constitute a single business which is entitled to only one fixed payment, the displacing agency shall consider all pertinent factors including the extent to which:

(a) The same premises and equipment are shared;

(b) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

(c) The entities are held out to the public, and to those customarily dealing with them, as one business; and

(d) The same person, or closely related persons own, control, or manage the affairs of the entities.

(3) Farm operation: A displaced farm operation, defined in WAC 468-100-002(9), may choose a fixed payment in lieu of a payment for actual moving and related expenses in an amount equal to its average annual net earnings as computed in accordance with subsection (5) of this section, but not less than one thousand dollars nor more than twenty thousand dollars. In the case of a partial acquisition of land which was a farm operation before the acquisition, the fixed payment shall be made only if the agency determines that:

(a) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

(b) The partial acquisition caused a substantial change in the nature of the farm operation.

(4) Nonprofit organization: A displaced nonprofit organization may choose a fixed payment of one thousand to twenty thousand dollars in lieu of a payment for actual moving and related expenses if the agency determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the agency demonstrates otherwise. Any payment in excess of one thousand dollars must be supported with financial statements for the two twelve-month periods prior to the acquisition. The amount to be used for the payment is the average of two years annual gross revenues less administrative expenses.

(5) Average annual net earnings of a business or farm operation: The average annual net earnings of a business or farm operation are one-half of its net earnings before federal, state, and local income taxes during the two taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full two taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the two taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the agency proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence which the agency determines is satisfactory.

NEW SECTION

WAC 468-100-305 INELIGIBLE MOVING AND RELATED EXPENSES. A displaced person is not entitled to payment for:

(1) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership. However, this section does not preclude the computation under WAC 468-100-401 (3)(d)(iii); or

(2) Interest on a loan to cover moving expenses; or

(3) Loss of goodwill; or

(4) Loss of profits; or

(5) Loss of trained employees; or

(6) Any additional operating expenses of a business or farm operation, incurred because of operating in a new location except as provided in WAC 468-100-306 (1)(j); or

(7) Personal injury; or

(8) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the agency; or

(9) Expenses for searching for a replacement dwelling; or

(10) Physical changes to the real property at the replacement location of a business or farm operation, except as provided in WAC 468-100-303 (1)(b)(iii) and (iv); or

(11) Costs for storage of personal property on real property already owned or leased by the displaced person.

NEW SECTION

WAC 468-100-306 REESTABLISHMENT EXPENSES—NONRESIDENTIAL MOVES. In addition to the payments available under WAC 468-100-303, a small business, as defined in WAC 468-100-002(16), farm or nonprofit organization may be eligible to receive a payment, not to exceed ten thousand dollars, for expenses actually incurred in relocating and reestablishing such small business, farm, or nonprofit organization at a replacement site.

(1) Eligible expenses. Reestablishment expenses must be reasonable and necessary, as determined by the agency. They may include, but are not limited to, the following:

(a) Repairs or improvements to the replacement real property as required by federal, state, or local law, code, or ordinance.

(b) Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.

(c) Construction and installation costs, not to exceed one thousand five hundred dollars for exterior signing to advertise the business.

(d) Provision of utilities from right of way to improvements on the replacement site.

(e) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, panelling, or carpeting.

(f) Licenses, fees, and permits when not paid as part of moving expenses.

(g) Feasibility surveys, soil testing and marketing studies.

(h) Advertisement of replacement location, not to exceed one thousand five hundred dollars.

(i) Professional services in connection with the purchase or lease of a replacement site.

(j) Increased costs of operation during the first two years at the replacement site, not to exceed five thousand dollars, for such items as:

(i) Lease or rental charges;

(ii) Personal or real property taxes;

(iii) Insurance premiums; and

(iv) Utility charges, excluding impact fees.

(k) Impact fees or one-time assessments for anticipated heavy utility usage.

(l) Other items that the agency considers essential to the reestablishment of the business.

(m) Expenses in excess of the regulatory maximums set forth in (c), (h) and (j) of this subsection may be considered eligible if large and legitimate disparities exist between costs of operation at the displacement site and costs of operation at an otherwise similar replacement site. In such cases the regulatory limitation for reimbursement of such costs may, at the request of the agency, be waived by the agency funding the program or project, but in no event shall total costs payable under this section exceed the ten thousand dollar statutory maximum.

(2) Ineligible expenses. The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

(a) Purchase of capital assets, such as, office furniture, filing cabinets, machinery, or trade fixtures.

(b) Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.

(c) Interior or exterior refurbishments at the replacement site which are for aesthetic purposes, except as provided in WAC 468-100-306(1)(e).

(d) Interest on money borrowed to make the move or purchase the replacement property.

(e) Payment to a part-time business in the home which does not contribute materially to the household income.

SUBPART E REPLACEMENT HOUSING PAYMENTS

NEW SECTION

WAC 468-100-401 REPLACEMENT HOUSING PAYMENT FOR ONE HUNDRED EIGHTY-DAY HOMEOWNER-OCCUPANTS. (1) Entitlement: A displaced person is entitled to the replacement housing payment for a one hundred eighty-day homeowner-occupant if the person:

(a) Has actually owned and occupied the displacement dwelling for not less than the one hundred eighty days immediately prior to the initiation of negotiations; and

(b) Purchases and occupies a DSS replacement dwelling within one year after the later of:

(i) The date the person receives final payment for the displacement dwelling or, in the case of condemnation, the date the required amount is deposited in the court; or

(ii) The date the person moves from the displacement dwelling.

(2) Amount of payment: The replacement housing payment for an eligible one hundred eighty-day homeowner-occupant may not exceed twenty-two thousand five hundred dollars. The payment under this section is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement dwelling, or the date such person is initially offered a comparable replacement dwelling, whichever is later. The payment shall be the sum of:

(a) The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling (price differential), as determined in accordance with subsection (3) of this section; and

(b) The increased interest costs and other debt service costs to be incurred in connection with the mortgage(s) on the replacement dwelling (increased mortgage interest cost), as determined in accordance with subsection (4) of this section; and

(c) The necessary and reasonable expenses incidental to the purchase of the replacement dwelling (incidental purchase expense), as determined in accordance with subsection (5) of this section.

(3) Price differential:

(a) Determination of price differential: The price differential to be paid under subsection (2)(a) of this section is the amount which must be added to the acquisition cost of the displacement dwelling to provide a total amount equal to the lesser of:

(i) The reasonable cost of a comparable replacement dwelling as determined in accordance with WAC 468-100-403(1); or

(ii) The purchase price of the DSS replacement dwelling actually purchased and occupied by the displaced person.

(b) Mixed-use and multifamily properties: If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for nonresidential purposes, and/or is located on a tract larger than a site that is typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered its acquisition cost when computing the price differential.

(c) Insurance proceeds: To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential. (Also see WAC 468-100-003.)

(d) Owner retention/salvage of displacement dwelling: If the owner retains ownership of, or obtains salvage rights to, the person's dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling shall be the sum of:

(i) The cost of moving and restoring the dwelling to retain the functional utility it had when situated on the displacement site; and

(ii) The cost of making the unit a DSS replacement dwelling (defined in WAC 468-100-002(6)); and

(iii) The current fair market value for residential use of the replacement site (based on any reasonable evaluation method determined by the agency), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

(iv) The retention/salvage value of the displacement dwelling, as determined from the acquisition of the displacement dwelling.

(e) Owner constructs replacement dwelling: If the owner obtains a DSS replacement dwelling by contracting for or otherwise obtaining new construction, the purchase price of the replacement dwelling shall be the sum of:

(i) The cost necessary to construct a dwelling that is comparable to the displacement dwelling; and

(ii) The current fair market value for residential use of the replacement site (based on any reasonable evaluation method determined by the agency), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site.

(4) Increased mortgage interest costs:

(a) The displacing agency shall determine the factors to be used in computing the amount to be paid to a displaced person under subsection (2)(b) of this section. The payment for increased mortgage interest costs shall be the amount which will reduce the mortgage balance on a new mortgage to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. In addition, payments shall include other debt service costs, if not paid as incidental costs, and shall be based only on bona fide mortgages that were valid liens on the displacement dwelling for at least one hundred eighty days prior to the initiation of negotiations. (b) through (f) of this subsection shall apply to the computation of the increased mortgage interest costs payment, which payment shall be contingent upon a mortgage being placed on the replacement dwelling.

(b) The payment shall be based on the unpaid mortgage balance(s) on the displacement dwelling; however, in the event the person obtains a smaller mortgage than the mortgage balance(s) computed in the buydown determination the payment will be prorated and reduced accordingly.

In the case of a home equity loan the unpaid balance shall be that balance which existed one hundred eighty days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.

(c) The payment shall be based on the remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, whichever is shorter.

(d) The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

(e) Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent:

(i) They are not paid as incidental expenses;

(ii) They do not exceed rates normal to similar real estate transactions in the area;

(iii) The agency determines them to be necessary; and

(iv) The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of such mortgage balance under this section.

(f) The displaced person shall be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the person's current mortgage(s) are known and the payment shall be made available at or near the time of closing on the replacement dwelling in order to reduce the new mortgage as intended.

(5) Incidental purchase expenses: The incidental purchase expenses to be paid for a one hundred eighty-day homeowner-occupant (under subsection (2)(c) of this section) or for downpayment assistance (under WAC 468-100-402 (3)(a)) are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including and are limited by such costs based on the cost of a comparable replacement dwelling pursuant to WAC 468-100-403(1):

(a) Legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.

(b) Lender, FHA, or VA application and appraisal fees.

(c) Loan origination or assumption fees that do not represent prepaid interest.

(d) Certification of structural soundness and termite inspection when required.

(e) Credit report.

(f) Owner's and mortgagee's evidence of title, e.g., title insurance.

(g) Escrow agent's fee.

(h) State revenue or documentary stamps, sales or transfer taxes.

(i) Such other costs as the agency determines to be incidental to the purchase.

(6) Rental assistance payment for one hundred eighty-day homeowner: A one hundred eighty-day homeowner-occupant who is eligible for a replacement housing payment under subsection (1) of this section but elects to rent a replacement dwelling, is eligible for a rental assistance payment not to exceed five thousand two hundred fifty dollars, computed and disbursed in accordance with WAC 468-100-402(2).

NEW SECTION

WAC 468-100-402 REPLACEMENT HOUSING PAYMENT FOR NINETY-DAY OCCUPANTS. (1) Entitlement: A tenant or

owner-occupant displaced from a dwelling is entitled to a payment not to exceed five thousand two hundred fifty dollars for rental assistance, as computed in accordance with subsection (2) of this section, or downpayment assistance, as computed in accordance with subsection (3) of this section, if such displaced person:

(a) Has actually and lawfully occupied the displacement dwelling for at least ninety days immediately prior to the initiation of negotiations; and

(b) Has rented, or purchased, and occupied a DSS replacement dwelling within one year (unless the agency extends this period for good cause) after:

(i) For a tenant, the date the tenant moves from the displacement dwelling; or

(ii) For an owner-occupant, the later of:

(A) The date the owner-occupant receives final payment for the displacing interest, or in the case of condemnation, the date the required amount is deposited with the court; or

(B) The date the owner-occupant moves from the displacement dwelling.

(2) Rental assistance payment:

(a) Amount of payment: An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed five thousand two hundred fifty dollars for rental assistance. (See also WAC 468-100-403(2).) Such payment shall be forty-two times the amount obtained by subtracting the base monthly rent or the fair market rent (in accordance with (b) of this subsection) of the displacement dwelling for a reasonable period prior to displacement, as determined by the agency, from the lessor of:

(i) The monthly rent and average monthly cost of utilities for a comparable replacement dwelling; or

(ii) The monthly rent and estimated average monthly utilities for the DSS replacement dwelling actually occupied by the displaced person.

(b) Base monthly rental for displacement dwelling. The base monthly rental for the displacement dwelling is the lesser of:

(i) The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the agency. (For an owner-occupant, use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances); or

(ii) Thirty percent of the person's average gross household income. (If the person refuses to provide appropriate evidence of income or is a dependent, the base monthly rental shall be established solely on the criteria in (b)(i) of this subsection. A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise.)

(iii) The total of the amounts designated for shelter and utilities if receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

(c) Manner of disbursement: A rental assistance payment may, at the agency's discretion, be disbursed in either a lump sum or in installments. However, except as limited by WAC 468-100-403(7), the full amount vests immediately, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing.

(3) Downpayment assistance payment:

(a) Amount of payment: An eligible displaced person who purchases a replacement dwelling is entitled to a downpayment assistance payment in the amount the person would receive under subsection (2) of this section if the person rented a comparable replacement dwelling. At the discretion of the agency, a downpayment assistance payment may be increased to any amount not to exceed five thousand two hundred fifty dollars. However, the payment to a displaced homeowner shall not exceed the amount the owner would receive under WAC 468-100-401(2) if he or she met the one hundred eighty-day occupancy requirement. An agency's discretion to provide the maximum payment shall be exercised in a uniform and consistent manner, so that eligible displaced persons in like circumstances are treated equally. A displaced person eligible to receive a payment as a one hundred eighty-day owner-occupant under WAC 468-100-401(1) is not eligible for this payment.

(b) Application of payment: The full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

NEW SECTION

WAC 468-100-403 ADDITIONAL RULES GOVERNING REPLACEMENT HOUSING PAYMENTS. (1) Determining cost of comparable replacement dwelling: The upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling (defined in WAC 468-100-002(4)).

(a) Three-comparable method: If available, at least three comparable replacement dwellings (defined in WAC 468-100-002(4)) shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling. An adjustment shall be made to the asking price of any dwelling, to the extent justified by local market data (see also WAC 468-100-205 (1)(b)). An obviously overpriced or underpriced dwelling may be ignored.

(b) Major exterior attribute: If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site (e.g., the site is significantly smaller or does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.

(c) Remainder offer: If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a remnant of the displacement dwelling site or a buildable residential lot, the agency may offer to purchase that remainder. If such an offer is made and the owner refuses to sell the remainder to the agency, the value attributable to that remainder, shall be added to the acquisition price paid for the displacement dwelling for purposes of computing the price differential.

(d) Location: Comparable replacement dwellings shall be selected preferably from the neighborhood in which the displacement dwelling was located or, if not otherwise feasible, from nearby or similar neighborhoods where housing costs are generally the same as in the displacement neighborhood. Where that is not possible dwellings may be selected from neighborhoods where housing costs are the same or higher.

(2) Applicability of last resort housing: Whenever a twenty-two thousand five hundred dollar replacement housing payment under WAC 468-100-401 or a five thousand two hundred fifty dollar replacement housing payment under WAC 468-100-402 would be insufficient to ensure that a comparable replacement dwelling is available on a timely basis to a person, the agency shall provide additional or alternative assistance under the last resort housing provisions in WAC 468-100-601 and 468-100-602, which may include increasing the replacement housing payment so that a replacement dwelling is within the displaced person's financial means as described in subsection (1)(g) of this section.

(3) Inspection of replacement dwelling: Before making a replacement housing payment or releasing a payment from escrow, the agency or its designated representative shall inspect the replacement dwelling and determine whether it is a DSS dwelling as defined in WAC 468-100-002(6).

(4) Purchase of replacement dwelling: A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

- (a) Purchases a dwelling; or
- (b) Purchases and rehabilitates a substandard dwelling; or
- (c) Relocates a dwelling which the person owns or purchases; or
- (d) Constructs a dwelling on a site the person owns or purchases; or
- (e) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases; or
- (f) Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair market value.

(5) Occupancy requirements for displacement or replacement dwelling: No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in this chapter for a reason beyond the person's control, including:

- (a) A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the funding agency; or
- (b) Another reason, such as a delay in the construction of the replacement dwelling, military reserve duty, or hospital stay, as determined by the agency.

(6) Conversion of payment: A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under WAC 468-100-402(2) is eligible to receive a payment under WAC 468-100-401 or 468-100-402(3) if the person meets the eligibility criteria for such payments, including purchase and occupancy within

the prescribed one-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under WAC 468-100-401 or 468-100-402(3).

(7) Payment after death: A replacement housing payment is personal to the displaced person and upon the person's death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

(a) The amount attributable to the displaced person's period of actual occupancy of the replacement housing shall be paid.

(b) The full payment shall be disbursed in any case in which a member of a displaced family dies and the other family member(s) continue to occupy a DSS replacement dwelling.

(c) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

SUBPART F MOBILE HOMES

NEW SECTION

WAC 468-100-501 APPLICABILITY. WAC 468-100-501 through 468-100-505 describes the requirements governing the provision of relocation payments to a person displaced from a mobile home and/or mobile homesite who meets the basic eligibility requirements of this chapter. Except as modified by WAC 468-100-501 through 468-100-505, such a displaced person is entitled to a moving expense payment in accordance with WAC 468-100-301 through 468-100-306 and a replacement housing payment in accordance with WAC 468-100-401 through 468-100-403 to the same extent and subject to the same requirements as persons displaced from conventional dwellings.

NEW SECTION

WAC 468-100-502 MOVING AND RELATED EXPENSES—MOBILE HOMES. A tenant or owner-occupant displaced from a mobile home or mobile homesite is entitled to a payment for the cost of moving his or her personal property on an actual cost basis in accordance with WAC 468-100-301 or, as an alternative, on the basis of a fixed payment under WAC 468-100-302. (However, if the mobile home is not acquired but the owner obtains a replacement housing payment under one of the circumstances described in WAC 468-100-503(3), the owner is not eligible for payment for moving the mobile home.) The following apply to payments for actual moving expenses under WAC 468-100-301:

(1) A displaced mobile homeowner, who moves the mobile home to a replacement site, is eligible for the necessary and reasonable cost of disassembling, moving, and reassembling any attached appurtenances (such as porches, decks, skirting, and awnings) which were not acquired, anchoring of the unit, and utility "hook-up" charges.

(2) If a mobile home requires repairs and/or modifications so that it can be moved and/or made decent, safe, and sanitary, and the agency determines that it would be practical to relocate it, the reasonable cost of such repairs and/or modifications is reimbursable.

(3) A nonreturnable mobile home park entrance fee is reimbursable, to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or the agency determines that payment of the fee is necessary to effect relocation.

NEW SECTION

WAC 468-100-503 REPLACEMENT HOUSING PAYMENT FOR ONE HUNDRED EIGHTY-DAY MOBILE HOME OWNER-OCCUPANTS. A displaced owner-occupant of a mobile home is entitled to a replacement housing payment, not to exceed twenty-two thousand five hundred dollars under WAC 468-100-401 if:

(1) The person both owned the displacement mobile home and occupied it on the displacement site for at least the one hundred eighty days immediately prior to the initiation of negotiations;

(2) The person meets the other basic eligibility requirements in WAC 468-100-401(1); and

(3) The agency acquires the mobile home and/or mobile homesite or the mobile home is not acquired by the agency but the owner is displaced from the mobile home because the agency determines that the mobile home:

- (a) Is not and cannot economically be made decent, safe, and sanitary; or

(b) Cannot be relocated without substantial damage or unreasonable cost; or

(c) Cannot be relocated because there is no available comparable replacement site; or

(d) Cannot be relocated because it does not meet mobile home park entrance requirements.

If the mobile home is not actually acquired, but the agency determines that it is not practical to relocate it, the acquisition cost of the displacement dwelling used when computing the price differential amount, described in WAC 468-100-401(3), shall include the salvage value or trade-in value of the mobile home, whichever is higher.

NEW SECTION

WAC 468-100-504 REPLACEMENT HOUSING PAYMENTS FOR NINETY-DAY MOBILE HOME OCCUPANTS. A displaced tenant or owner-occupant of a mobile home is eligible for a replacement housing payment, not to exceed five thousand two hundred fifty dollars, under WAC 468-100-402 if:

(1) The person actually occupied the displacement mobile home on the displacement site for at least the ninety days immediately prior to the initiation of negotiations;

(2) The person meets the other basic eligibility requirements in WAC 468-100-402(1); and

(3) The agency acquires the mobile home and/or mobile homesite, or the mobile home is not acquired by the agency but the owner or tenant is displaced from the mobile home because of one of the circumstances described in WAC 468-100-503(3).

NEW SECTION

WAC 468-100-505 ADDITIONAL RULES GOVERNING RELOCATION PAYMENT TO MOBILE HOME OCCUPANTS.

(1) Replacement housing payment based on dwelling and site: Both the mobile home and mobile homesite must be considered when computing a replacement housing payment. For example, a displaced mobile home occupant may have owned the displacement mobile home and rented the site or may have rented the displacement mobile home and owned the site. Also a person may elect to purchase a replacement mobile home and rent a replacement site, or rent a replacement mobile home and purchase a replacement site. In such cases, the total replacement housing payment shall consist of a payment for a dwelling and a payment for a site, each computed under the applicable section in WAC 468-100-401 through 468-100-403. However, the total replacement housing payment under WAC 468-100-401 through 468-100-403 shall not exceed the maximum payment (either twenty-two thousand five hundred dollars or five thousand two hundred fifty dollars) permitted under the subsection that governs the computation for the dwelling. (See also WAC 468-100-403(2).)

(2) Cost of comparable replacement dwelling:

(a) If a comparable replacement mobile home is not available, the replacement housing payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

(b) If the agency determines that it would be practical to relocate the mobile home, but the owner-occupant elects not to do so, the agency may determine that, for purposes of computing the price differential under WAC 468-100-401(3), the cost of a comparable replacement dwelling is the sum of:

(i) The value of the mobile home;

(ii) The cost of any necessary repairs or modifications; and

(iii) The estimated cost of moving the mobile home to a replacement site.

(3) Initiation of negotiations: If the mobile home is not actually acquired, but the occupant is considered displaced under this chapter, the "initiation of negotiations" is the date of initiation of negotiations to acquire the land, or, if the land is not acquired, the date of the written notification that the occupant is a displaced person under this chapter.

(4) Person moves mobile home: If the owner is reimbursed for the cost of moving the mobile home under this chapter, the owner is not eligible to receive a replacement housing payment to assist in purchasing or renting a replacement mobile home. The owner may, however, be eligible for assistance in purchasing or renting a replacement site.

(5) Partial acquisition of mobile home park: The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the agency determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project,

the owner and any tenant shall be considered a displaced person who is entitled to relocation payments and other assistance under this chapter.

(6) General provisions: WAC 468-100-403 also applies.

SUBPART G LAST RESORT HOUSING

NEW SECTION

WAC 468-100-601 APPLICABILITY. (1) Basic determination to provide last resort housing: A person cannot be required to move from the person's dwelling unless at least one comparable replacement dwelling is made available to the person. Whenever an agency determines that a replacement housing payment under WAC 468-100-401 through 468-100-403 would not be sufficient to provide a comparable replacement dwelling on a timely basis to the person, the agency is authorized to take appropriate cost-effective measures under WAC 468-100-601 and 468-100-602 to provide such a dwelling. The agency's obligation to ensure that a comparable replacement dwelling is available shall be met when such a dwelling, or assistance necessary to provide such a dwelling, is offered under the provisions of WAC 468-100-601 and 468-100-602.

(2) Basic rights of persons to be displaced:

(a) The provisions of WAC 468-100-601 and 468-100-602 do not deprive any displaced person of any rights the person may have under chapter 8.26 RCW or any implementing regulations. The agency shall not require any displaced person to accept a dwelling provided by the agency under the procedures in WAC 468-100-601 and 468-100-602 (unless the agency and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible. A one hundred eighty-day homeowner-occupant who is eligible for a payment under WAC 468-100-401 is entitled to a reasonable opportunity to purchase a comparable replacement dwelling.

(b) The actual amount of assistance shall be limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement dwelling or the date the person is initially offered a comparable replacement dwelling, whichever is later.

(c) The agency is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement dwelling than the agency would be required to provide such persons if they owned fee simple title to the displacement dwelling. If such assistance is not sufficient to buy a replacement dwelling, the agency may provide additional purchase assistance or rental assistance.

NEW SECTION

WAC 468-100-602 METHODS OF PROVIDING REPLACEMENT HOUSING. Agencies shall have broad latitude in implementing WAC 468-100-601 and 468-100-602, but implementation shall be on a reasonable cost-effective basis.

(1) The methods of providing last resort housing include, but are not limited to:

(a) Rehabilitation of and/or additions to an existing replacement dwelling.

(b) The construction of a new replacement dwelling.

(c) The provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest free.

(d) A replacement housing payment in excess of the limits set forth in WAC 468-100-401 or 468-100-402. A rental assistance subsidy under WAC 468-100-601 and 468-100-602 may be provided in installments or in a lump sum.

(e) The relocation and, if necessary, rehabilitation of a dwelling.

(f) The purchase of land and/or a replacement dwelling by the displacing agency and subsequent sale or lease to, or exchange with, a displaced person.

(g) The removal of barriers to the handicapped.

(h) The change in status of the displaced person from tenant to homeowner when it is more cost-effective to do so, as in cases where a downpayment may be less expensive than a last resort rental assistance payment.

(2) Under special circumstances, modified methods of providing housing of last resort permit consideration of:

(a) Replacement housing based on space and physical characteristics different from those in the displacement dwelling.

(b) Upgraded, but smaller replacement housing that is decent, safe, and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence.

(c) The financial means of a displaced person who is not eligible to receive a replacement housing payment because of failure to meet length-of-occupancy requirements when comparable replacement rental housing is not available at rental rates within thirty percent of the person's gross monthly household income.

WSR 89-14-040
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed June 29, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning educational activities, new section WAC 314-12-175;

that the agency will at 9:30 a.m., Tuesday, August 8, 1989, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504-2531, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 66.08.030.

The specific statute these rules are intended to implement is RCW 66.28.010 and 66.28.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1989.

Dated: June 28, 1989

By: Paula O'Connor
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-12-175 Educational activities.

Description of Purpose: To require advance approval of educational activities authorized by RCW 66.28.150 and place restrictions on what can and cannot occur during these educational activities.

Statutory Authority: RCW 66.08.030.

Statutes Implemented by the Rule: RCW 66.28.010 and 66.28.150.

Summary of Rule: The changes as proposed are to clarify RCW 66.28.010 and 66.28.150.

Reasons Supporting Proposed Action: During the past year the board has become aware that some manufacturers, importers and wholesalers are presenting "educational classes" under the auspices of RCW 66.28.150 merely as a front to entertain retailers and their employees at events such as hydroplane races, professional athletic events, racetracks, etc. The rule as proposed would require 30 days advance submission of a proposed educational event to the board for approval in order to allow the board to determine if the planned educational activity is legitimate. If conducted at a location other than the premises of the manufacturer, importer or wholesaler, the manufacturer, importer or wholesaler is

prohibited from paying for any personal expenses of the retailers and their employees, including transportation, room and board, or admission. In order to encourage sobriety and allow for normal taste testing methods, small amounts of hors d'oeuvres will be allowed, parallel to the food allowed when providing samples as authorized by WAC 314-64-080.

Agency Personnel Involved: In addition to the board the following agency personnel have responsibility for drafting, implementing and enforcing this rule amendment: Janice Lee Britt, Supervisor, Manufacturers, Importers and Wholesalers Division, phone (206) 753-6273 and M. Carter Mitchell, Public Information Officer, phone (206) 753-6276, located at Capital Plaza Building, Olympia, Washington 98504-2531.

Person or Organization Proposing the Rule: The Washington State Liquor Control Board.

Necessity of Rule: Not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: There will be no negative cost impact for this rule.

NEW SECTION

WAC 314-12-175 EDUCATIONAL ACTIVITIES. (1) Manufacturers, importers, and wholesalers who wish to present courses of instruction to retail licensees and their employees in accordance with RCW 66.28.150 must present the proposed course of instruction to the board for approval at least thirty days in advance of the date scheduled for the course.

(2) Other activities which are allowed at such courses of instruction include:

(a) Information displays of other manufacturers, importers, and wholesalers of liquor and nonalcoholic products;

(b) Background music; and

(c) The provision of hors d'oeuvres, but not the provision of full meals.

(3) The manufacturer, importer, or wholesaler may not pay any of the retailer's personal expenses such as transportation, room and board, or admission. This applies to courses of instruction conducted on the premises of the manufacturer, importer, or wholesaler, or elsewhere.

WSR 89-14-041
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed June 29, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning keg registration, new section WAC 314-16-250;

that the agency will at 10:00 a.m., Tuesday, August 8, 1989, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504-2531, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 66.08.030 and 66.98.070.

The specific statute these rules are intended to implement is RCW 66.08.010, 66.08.050(10), 66.24.240, 66.24.320, 66.24.330, 66.24.360, 66.44.160 and 66.44.270.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1989.

Dated: June 29, 1989

By: Paula O'Connor
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-16-250 Retail sale of malt liquor in kegs.

Description of Purpose: To add a new section to chapter 314-16 WAC implementing sections 229 through 234, chapter 271, Laws of 1989, on keg registration.

Statutory Authority: RCW 66.08.030 and 66.98.070.

Statutes Implemented by the Rule: RCW 66.08.010, 66.08.050(10), 66.24.240, 66.24.320, 66.24.330, 66.24.360, 66.44.160 and 66.44.270.

Summary of Rule: Requires retail keg sellers to complete and keg to go purchasers to sign a keg registration declaration and receipt form provided by the board. Further stipulates what the seller must require of the purchaser; prescribes the information required on a properly completed keg registration and declaration and receipt form to include exceptions when selling multiple kegs; requires the keg seller to comply with all provisions of the keg registration law; specifies the seller must affix a properly completed and signed keg registration declaration and receipt form on all kegs sold to go and retain a receipt for one year on the premises available for inspection and copying by the board and law enforcement. Provides the form affixed to the keg serves as the purchaser's receipt; and requires kegs to go be purchased from an authorized source, contain a keg registration sticker form and makes possession of a keg without a keg registration sticker affixed thereon a violation of the title.

Reasons Supporting Proposed Action: Section 231, chapter 271, Laws of 1989, mandates that the board adopt rules to effect administration of the keg registration law which becomes effective July 1, 1989.

Agency Personnel Involved: In addition to the board, the following personnel have responsibility for drafting, implementing and enforcing this rule amendment: Gary W. Gilbert, Chief, Enforcement Division, Capital Plaza Building, Olympia, Washington 98504, phone (206) 586-3052.

Person or Organization Proposing the Rule: The Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: Not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: There will be no negative cost impact for this rule amendment.

NEW SECTION

WAC 314-16-250 RETAIL SALE OF MALT LIQUOR IN KEGS. (1) Any licensee who sells or offers for sale kegs or other containers holding four gallons or more of malt liquor to consumers who are not licensed under chapter 66.24 RCW shall require the purchaser to:

(a) Provide one piece of identification pursuant to RCW 66.16.040.

(b) Sign a sworn statement, contained on the keg registration declaration and receipt form, under penalty of perjury that:

(i) The purchaser is of legal age to purchase, possess or use malt liquor;

(ii) The purchaser will not allow any person under the age of twenty-one years to consume the beverage except as provided by RCW 66.44.270;

(iii) The purchaser will not remove, obliterate, or allow to be removed or obliterated, the keg registration declaration and receipt form affixed to the container.

(c) State the particular address where the malt liquor will be consumed, or the particular address where the keg or other container will be physically located.

(2) The keg registration declaration and receipt form provided by the board must be properly completed.

(a) The form shall contain:

(i) The name and address of the purchaser.

(ii) The type and number of the identification presented by the purchaser pursuant to RCW 66.16.040.

(iii) A sworn statement, signed by the purchaser under penalty of perjury, that the purchaser is twenty-one years of age or older; will not allow persons under twenty-one years of age to consume the malt liquor purchased; and that the purchaser will not remove or obliterate the keg registration tag affixed to the keg or allow its removal or obliteration.

(iv) The particular address where the malt liquor will be consumed, and the date on which it will be consumed.

(b) Where the purchaser obtains more than one keg for consumption at the same location and on the same date, only one keg registration declaration and receipt form must contain all required information. All other keg registration declaration and receipt forms for that particular transaction must contain the registration number from the fully completed form as a reference and be signed by the purchaser. Such keg registration declaration and receipt forms which contain the reference number of a fully completed form and have been signed by the purchaser constitute a valid and properly completed keg registration and declaration receipt.

(3) The seller shall comply with all provisions of the keg registration law as adopted in chapter 271, Laws of 1989, sections 229 through 234.

(4) For the purpose of tracing the kegs and purchaser responsibility it shall be the responsibility of the seller to affix the properly completed and signed keg registration declaration and receipt form to all containers of four gallons or more of malt liquor prior to the container leaving control of the seller.

(5) The licensee must retain a copy of the keg registration declaration and receipt, which shall be retained on the licensed premises for a period of one year unless otherwise authorized in writing by the board. The records shall be available for inspection and copying by any liquor enforcement officer or other law enforcement officer.

(6) The keg registration declaration and receipt affixed to the keg may serve as the purchaser's receipt.

(7) Kegs or other containers holding four gallons or more of malt liquor shall be purchased for off-premises consumption only from an authorized retail source and shall, at all times, have a properly completed keg registration declaration and receipt form affixed thereon. Possession of a keg or other container which holds four gallons or more of malt liquor without a properly completed keg registration and declaration form either affixed thereon or in possession of the person with the keg(s) shall be a violation of this title.

WSR 89-14-042

EMERGENCY RULES

LIQUOR CONTROL BOARD

[Order 280, Resolution No. 289—Filed June 29, 1989]

Be it resolved by the Washington State Liquor Control Board, acting at the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98503-2531, that it does adopt the annexed rules relating to educational activities, new section WAC 314-12-175.

We, the Washington State Liquor Control Board, 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 this rule defines activities the board regards as prohibited by law, and imposes an advance approval requirement prior to commencement of activities which the board has reason to believe will be conducted before the rule can be adopted in permanent form. Substantial public comment has been received on the subject governed by the rule, in response to Hearing Notice No. WSR 89-13-050. The board therefore believes that adoption of this rule on an emergency basis will not adversely affect those subject to it.

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

This rule is promulgated under the general rule-making authority of the Washington State Liquor Control Board as authorized in RCW 66.08.030.

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.

APPROVED AND ADOPTED June 28, 1989.

By Paula O'Connor
Chairman

NEW SECTION

WAC 314-12-175 EDUCATIONAL ACTIVITIES. (1) *Manufacturers, importers, and wholesalers who wish to present courses of instruction to retail licensees and their employees in accordance with RCW 66.28.150 must present the proposed course of instruction to the board for approval at least thirty days in advance of the date scheduled for the course.*

(2) *Other activities which are allowed at such courses of instruction include:*

(a) *Information displays of other manufacturers, importers, and wholesalers of liquor and nonalcoholic products;*

(b) *Background music; and*

(c) *The provision of hors d'oeuvres, but not the provision of full meals.*

(3) *The manufacturer, importer, or wholesaler may not pay any of the retailer's personal expenses such as transportation, room and board, or admission. This applies to courses of instruction conducted on the premises of the manufacturer, importer, or wholesaler, or elsewhere.*

WSR 89-14-043 EMERGENCY RULES LIQUOR CONTROL BOARD

[Order 282, Resolution No. 291—Filed June 29, 1989]

Be it resolved by the Washington State Liquor Control Board, acting at the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98503-2531, that it does adopt the annexed rules relating to keg registration, new section WAC 314-16-250.

We, the Washington State Liquor Control Board, 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 emergency adoption of this rule on an emergency basis is necessary to carry out the board's responsibility under chapter 271, Laws of 1989, effective July 1, 1989.

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

This rule is promulgated pursuant to sections 229 through 334, chapter 271, Laws of 1989 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Washington State Liquor Control Board as authorized in RCW 66.08.030 and 66.98.070.

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.

APPROVED AND ADOPTED June 28, 1989.

By Paula O'Connor
Chairman

NEW SECTION

WAC 314-16-250 RETAIL SALE OF MALT LIQUOR IN KEGS. (1) *Any licensee who sells or offers for sale kegs or other containers holding four gallons or more of malt liquor to consumers who are not licensed under chapter 66.24 RCW shall require the purchaser to:*

(a) *Provide one piece of identification pursuant to RCW 66.16.040.*

(b) *Sign a sworn statement, contained on the keg registration declaration and receipt form, under penalty of perjury that:*

(i) *The purchaser is of legal age to purchase, possess or use malt liquor;*

(ii) *The purchaser will not allow any person under the age of twenty-one years to consume the beverage except as provided by RCW 66.44.270;*

(iii) *The purchaser will not remove, obliterate, or allow to be removed or obliterated, the keg registration declaration and receipt form affixed to the container.*

(c) State the particular address where the malt liquor will be consumed, or the particular address where the keg or other container will be physically located.

(2) The keg registration declaration and receipt form provided by the board must be properly completed.

(a) The form shall contain:

(i) The name and address of the purchaser.

(ii) The type and number of the identification presented by the purchaser pursuant to RCW 66.16.040.

(iii) A sworn statement, signed by the purchaser under penalty of perjury, that the purchaser is twenty-one years of age or older, will not allow persons under twenty-one years of age to consume the malt liquor purchased; and that the purchaser will not remove or obliterate the keg registration tag affixed to the keg or allow its removal or obliteration.

(iv) The particular address where the malt liquor will be consumed, and the date on which it will be consumed.

(b) Where the purchaser obtains more than one keg for consumption at the same location and on the same date, only one keg registration declaration and receipt form must contain all required information. All other keg registration declaration and receipt forms for that particular transaction must contain the registration number from the fully completed form as a reference and be signed by the purchaser. Such keg registration declaration and receipt forms which contain the reference number of a fully completed form and have been signed by the purchaser constitute a valid and properly completed keg registration and declaration receipt.

(3) The seller shall comply with all provisions of the keg registration law as adopted in chapter 271, Laws of 1989, sections 229 through 234.

(4) For the purpose of tracing the kegs and purchaser responsibility it shall be the responsibility of the seller to affix the properly completed and signed keg registration declaration and receipt form to all containers of four gallons or more of malt liquor prior to the container leaving control of the seller.

(5) The licensee must retain a copy of the keg registration declaration and receipt, which shall be retained on the licensed premises for a period of one year unless otherwise authorized in writing by the board. The records shall be available for inspection and copying by any liquor enforcement officer or other law enforcement officer.

(6) The keg registration declaration and receipt affixed to the keg may serve as the purchaser's receipt.

(7) Kegs or other containers holding four gallons or more of malt liquor shall be purchased for off-premises consumption only from an authorized retail source and shall, at all times, have a properly completed keg registration declaration and receipt form affixed thereon. Possession of a keg or other container which holds four gallons or more of malt liquor without a properly completed keg registration and declaration form either affixed thereon or in possession of the person with the keg(s) shall be a violation of this title.

WSR 89-14-044

WITHDRAWAL OF PROPOSED RULES LIQUOR CONTROL BOARD

[Filed June 29, 1989]

This will notify you that the board's notice of intention to adopt, amend, or repeal rules filed June 19, 1989, and bearing Notice No. WSR 89-13-050, is hereby withdrawn.

It is the board's intention to file a new notice of intention to adopt, amend or repeal WAC 314-12-175.

Paula C. O'Connor
Chairman

WSR 89-14-045

ADOPTED RULES INSURANCE COMMISSIONER

[Order R 89-8—Filed June 29, 1989]

I, Dick Marquardt, Insurance Commissioner, do promulgate and adopt at Olympia, Washington, the annexed rules relating to sections of chapter 284-17 WAC pertaining to insurance education, in accord with the enabling legislation effective July 1, 1989. The amendments modify criteria for approval and conduct of prelicense education courses, and postpone the dates on which license applicants and insurance education providers must comply.

This action is taken pursuant to Notice No. WSR 89-11-077 filed with the code reviser on May 22, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 48.02.060 which directs that the Insurance Commissioner has authority to implement the provisions of RCW 48.17.150.

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.

APPROVED AND ADOPTED June 29, 1989.

By Dick Marquardt
Insurance Commissioner
By Roger Polzin
Deputy Commissioner

AMENDATORY SECTION (Amending Order R 88-14, filed 12/16/88)

WAC 284-17-505 DEFINITIONS. As used in WAC 284-17-505 through 284-17-565, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Approved prelicense education provider" or "provider" means any insurer, professional association, ~~((community college))~~ educational institution created by Washington statutes or vocational school licensed under Title 28C RCW, or independent contractor, to which the

commissioner has granted authority to conduct and certify completion of an approved course satisfying the insurance education requirements of RCW 48.17.150.

(2) "Approved course" means a series of seminars, classes, or lectures meeting the requirements of WAC 284-17-550; covering the prescribed curricula of WAC 284-17-551 and ~~((any))~~ the applicable section(s) of WAC 284-17-552 through 284-17-555. A course is approved only for offering by an approved provider, while supervised by an approved program director, and ~~((taught by))~~ presented under the supervision of an approved instructor, according to the applicable section of either WAC 284-17-540 or 284-17-545.

(3)(a) "Instructor" means a person meeting the requirements of WAC 284-17-537.

(b) "Student" means an individual taking the prelicense education course that is required as a prerequisite to admission to the life, disability, property, or casualty resident insurance agent's license examination.

(4) "Curriculum" or "curricula" means the topics of study prescribed for prelicense education by the commissioner at WAC 284-17-551 through 284-17-555, concerning the life, disability, property, and casualty lines of insurance, and including the Washington insurance statutes and regulations curriculum.

(5) "Independent testing service" means the entity with which the commissioner has contracted to develop, administer, and score license examinations.

(6) "Insurer" means an insurance company, health care service contractor, or health maintenance organization authorized to conduct business in Washington under RCW 48.05.030, 48.44.015, or 48.46.027, respectively.

AMENDATORY SECTION (Amending Order R 88-14, filed 12/16/88)

WAC 284-17-520 WHEN PRELICENSE EDUCATION REQUIREMENT MUST BE MET. The requirements of WAC 284-17-505 through 284-17-520 apply to all persons taking an agent's license examination, conducted on or after ~~((July))~~ November 1, 1989.

(1) Any applicant seeking a resident's license as a life, disability, property, or casualty insurance agent or solicitor in the state of Washington who appears at an examination site must present certificates of completion of the requisite number of hours of approved prelicense education, or a written waiver of the applicable line curriculum and a certificate of completion of the statutes and regulations curriculum, to be allowed access to the examination.

(2) Any applicant who receives a passing score on the licensing examination must include validated certificates of completion of the approved prelicense education, or a written waiver of the applicable line curriculum requirement, along with other license application documents, to be issued the license.

AMENDATORY SECTION (Amending Order R 88-14, filed 12/16/88)

WAC 284-17-535 PROGRAM DIRECTOR QUALIFICATIONS AND RESPONSIBILITIES. (1) A program director's necessary qualifications are:

(a) At least five years of teaching experience and knowledge of insurance products, principles, and laws.

(i) Each independent provider's program director must possess and hold in good standing a Washington agent's or broker's license.

(ii) Each insurer provider's program director must possess such a license or comparable scholastic or professional credentials that the commissioner deems equivalent to such a license.

(iii) The requirements of ~~((i))~~ of this subsection shall not apply to program directors employed by approved providers governed by chapters 28B.19 and 28B.50 RCW, community colleges within Washington state.

(b) An employment history involving administrative educational experience.

(c) Trustworthiness. A program director is untrustworthy if he or she has violated any statute or regulation pertaining to insurance, or to any other regulated occupation; or has had an occupational license revoked in any state; or has been convicted of a crime evidencing lack of fitness to assume fiduciary duties.

(2) Information on the program director which must be submitted to the commissioner includes the full disclosure of any regulatory or legal action involving the program director's professional or occupational activities.

(3) A program director's responsibilities include:

(a) Conducting a competent background investigation to ascertain that each instructor is trustworthy and qualified under WAC 284-17-537 and under WAC 284-17-540 or 284-17-545 for the line of insurance he or she has been designated to instruct; except that:

(i) In the event of an emergency created by the unavoidable absence of an approved instructor, the program director may appoint an interim instructor who was not previously certified and approved, to complete the current course offering, however:

(ii) The program director must immediately notify the commissioner of the nature of the emergency, the name of the ~~((temporary))~~ interim instructor, and the date upon which the current course offering will conclude.

(iii) At the conclusion of the current course offering the program director and provider shall suspend operation of the affected course until an approved instructor is available to conduct the classes.

(b) Supervising each approved course and reviewing all completed student evaluations of the course; and

(c) Insuring that instructors properly issue certificates of completion according to WAC 284-17-539 to the students at the completion of each course.

AMENDATORY SECTION (Amending Order R 88-14, filed 12/16/88)

WAC 284-17-537 INSTRUCTOR QUALIFICATIONS AND RESPONSIBILITIES. The provider must submit the name(s) of each proposed instructor to the commissioner.

(1) To qualify as an instructor for an approved provider, each proposed instructor must:

(a) Demonstrate any combination of at least three years of ~~((instructional experience and))~~ experience instructing insurance education courses, supervising students completing self-paced insurance instructional materials, or experience as a licensed insurance agent or broker.

(b) Be trustworthy. An instructor is untrustworthy if he or she has violated any statute or regulation pertaining to insurance, or to any other regulated occupation; or has had an occupational license revoked in any state; or has been convicted of a crime evidencing lack of fitness to assume fiduciary duties.

(c) Demonstrate competence in the line of insurance he or she proposes to teach:

(i) Each independent provider's instructor must possess and hold in good standing a Washington agent's or broker's license for the applicable line(s) of insurance.

(ii) Each insurer provider's instructor must possess such a license or scholastic or professional credentials that the commissioner deems equivalent to such a license.

(2) The instructor of each approved course shall perform the following instructional and administrative duties:

(a) At the beginning session of each approved course, assure that each student has been properly registered.

(b) ~~Remain ((m)) on the ((classroom for the duration of each scheduled class session))~~ premises whenever instruction is being offered.

(c) ~~((Teach))~~ Ensure that the study materials utilized, ((which)) incorporate the prescribed curriculum, ((according to)) and comply with the lesson plans filed with the commissioner.

(d) The instructor may teach approved courses on a live-instruction basis, or combine live instruction with the use of other instructional aids, or proctor student use of self-paced insurance instructional materials.

(e) At the conclusion of the course, distribute the standard course evaluation form prescribed by the commissioner, to each student who has completed the course; and collect the completed forms.

~~((f))~~ (f) To each student who has completed the course, issue a certificate of completion by signing each certificate, and thereby certify that the student actually completed the course.

~~((f))~~ (g) Review course evaluations with the program director.

AMENDATORY SECTION (Amending Order R 88-14, filed 12/16/88)

WAC 284-17-540 REQUIREMENTS APPLICABLE TO INDEPENDENT PRELICENSE EDUCATION PROVIDERS. This section applies to all persons, other than insurers, offering life, disability, property, or casualty insurance courses to license applicants for purposes of satisfying the educational requirement prescribed by WAC 284-17-505 through 284-17-520.

(1) In addition to the general conditions for approval set out at WAC 284-17-530 through 284-17-539, and in addition to complying with the requirements of WAC 284-17-550, each noninsurer prelicense education provider shall:

(a) Describe any existing insurance education program:

(i) Class titles and curricula covered;

(ii) Number of students per course during previous year;

(iii) Name(s) and qualifications of instructor(s);

(iv) Name and qualifications of person responsible for the previous program.

(b) Describe the changes necessary to bring any existing program into compliance with WAC 284-17-530 through 284-17-539, 284-17-550 and 284-17-551, and each applicable section of WAC 284-17-552 through 284-17-555.

(c) Reveal the provider's department of revenue registration number.

(2) To qualify a provider for the commissioner's approval, the provider's proposed program director must hold in good standing a valid Washington agent's or broker's license and present evidence of teaching experience, the combination to total a minimum of five consecutive years' qualifications. After ~~((January))~~ November 1, 1994, the license(s) must have been held in good standing for at least five years.

(3) To qualify a provider for the commissioner's approval, each of the provider's proposed instructors must hold in good standing a valid Washington agent's or broker's license, for the line(s) of insurance he or she will be instructing, and present evidence of teaching experience or experience supervising student completion of self-paced instructional materials, the combination to total a minimum of three consecutive years' qualifications. After ~~((January))~~ November 1, 1992, the license(s) must have been held in good standing for at least three years.

(4) An independent provider shall establish and maintain records and an appropriate accounting system for all tuition payments received by the provider.

(a) All tuition funds received must be deposited promptly into a bank account or depository separate from any other account or depository.

(b) The accounting system used must effectively isolate the separate account from any other operating or personal accounts, and must provide an audit trail so that details underlying the summary data may be identified.

(c) The provider shall make such records available for inspection by the commissioner during regular business hours upon demand during the three years immediately after the date of the transaction.

(5) Noninsurer course providers shall have an exact physical location or locations ~~((, and all classes shall be scheduled on a regular and predictable basis))~~.

AMENDATORY SECTION (Amending Order R 88-14, filed 12/16/88)

WAC 284-17-550 COURSE STANDARDS. (1) No course will be approved unless the Washington insurance statutes and regulations applicable to the specific line are incorporated into each specific line(s) curriculum offered by the provider. These line specific statutes and regulations are not to be contained in the statutes

and regulations curriculum of general application found at WAC 284-17-551.

(2) To qualify for approval, each course shall be ~~((conducted by))~~ presented under the supervision of an approved instructor, utilizing study materials that include all the prescribed curriculum, and shall be presented under the general supervision of an approved prelicense education provider.

(a) Each instructor's qualifications shall be identified, according to the requirements of WAC 284-17-530 (2)(d) and 284-17-537, and 284-17-540 or 284-17-545, for approval by the commissioner.

(b) The course instructor shall be ~~((present in the classroom at all times during the hours an approved course is presented))~~ on the premises whenever instruction is being offered.

(3) Each course shall be broken into individual lesson components covering the prescribed curriculum.

(a) Instruction may include coverage of related subject matter; however, such peripheral instruction must be presented in the individual lesson components as supplementary to the prescribed curriculum hours.

(b) The provider may choose the prelicense education study materials, and shall certify that the study materials include all of the prescribed curriculum.

(4) "Hours" are approved by the commissioner for an approved course. Each "hour" shall represent at least fifty minutes of actual instruction on a topic within the prescribed prelicense education curriculum.

(5) No course may be represented as approved until the approved prelicense education provider has received the commissioner's written approval of the instructor and of the course.

(a) Approved prelicense education providers must apply to the commissioner for amended course approval if any of the following changes or revisions are instituted before the original course approval expiration date:

- (i) Change of study materials;
- (ii) Change of ~~((program schedule or))~~ location; or
- (iii) Change of course tuition or rebate policy.

(b) Amended approval, if granted, is valid only until the original course approval expiration date.

AMENDATORY SECTION (Amending Order R 88-14, filed 12/16/88)

WAC 284-17-570 IMPLEMENTATION DATES. WAC 284-17-530 through 284-17-565 concerning prelicense education providers shall be effective thirty calendar days from the date filed with the code reviser.

(1) Each person seeking initial provider approval, and intending to offer approved courses before ~~((July))~~ November 1, 1989, must submit a request for provider approval to the commissioner before ~~((March))~~ August 1, 1989.

(2) A request for provider approval that is received after ~~((March))~~ August 1, 1989, may not be granted before ~~((July))~~ November 1, 1989.

WSR 89-14-046

RULES COORDINATOR

WASHINGTON STATE UNIVERSITY

[Filed June 29, 1989]

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

WSR 89-14-047

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 89-51—Filed June 29, 1989]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use rules.

I, Joseph R. Blum, 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 Skagit River coho are in need of protection. This rule is necessary to reduce the take of Skagit River coho as part of the overall coho harvest. There is inadequate time to promulgate permanent regulations.

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

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 29, 1989.

By Bette M. Johnson
for Joseph R. Blum
Director

NEW SECTION

WAC 220-56-19000M SALTWATER SEASONS AND BAG LIMITS—SALMON. *Notwithstanding the provisions of WAC 220-56-180 and WAC 220-56-190, effective July 1, 1989 it shall be unlawful to take, fish for or possess salmon for personal use in catch areas 5, 6, 7, 8 and 9 except as provided for in this section:*

(1) *Open to salmon angling:*

Areas 5 and 6 (Sekiu River east to Admiralty Head, Whidbey Island), Open Saturday through Thursday, July 1, 1989 until further notice.

Area 7, (San Juan Islands), Open seven days a week July 1, 1989 until further notice.

Area 8 and 9, (Marine waters east of Whidbey Island and north of Kingston), Open seven days a week, July 1

to July 31, open Saturday through Thursday, August 1, 1989 until further notice.

(2) Bag limit - 2 salmon per day, Size limit for chinook, 22 inch minimum. July 1, 1989 until further notice.

WSR 89-14-048
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 89-52—Filed June 29, 1989]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use rules.

I, Joseph R. Blum, 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 this regulation is necessary to improve recreational fishing in this state, as broodstock fish have moved into these waters. There is insufficient time to promulgate permanent regulations.

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

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 29, 1989.

By Bette M. Johnson
for Joseph R. Blum
Director

NEW SECTION

WAC 220-57-43500E SKYKOMISH RIVER. Notwithstanding the provisions of WAC 220-57-435, effective July 1, 1989 until further notice, it is unlawful to take, fish for, or possess salmon for personal use in those waters of the Skykomish River upstream from the Highway 2 Bridge located approximately two miles east of the town of Gold Bar.

WSR 89-14-049
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 89-53—Filed June 29, 1989]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, Joseph R. Blum, 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 7,500 chinook salmon are available for harvest in Grays Harbor and Willapa Bay through August 15, 1989. The harvest rates on white sturgeon has been too high in past years, setline is a directed fishery on sturgeon. Only a reduced harvest is possible during this summer fishery. There is inadequate time to promulgate permanent regulations.

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

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 29, 1989.

By Bette M. Johnson
for Joseph R. Blum
Director

NEW SECTION

WAC 220-36-02100B GRAYS HARBOR GILL NET SEASON Notwithstanding the provisions of WAC 220-36-021 and WAC 220-36-031, effective July 5 to August 15, 1989, it is unlawful to take, fish for, or possess salmon and sturgeon taken for commercial purposes from any Grays Harbor Salmon Management and Catch Reporting Areas except as provided for in this section:

(1) Area 2B - Open continuously 6:00 PM July 5 to 6:00 PM August 15, 1989.

(2) Gill net mesh is restricted to a 5 inch minimum.

(3) July 5 to July 31, 1989, white sturgeon must be released immediately and returned to the water.

(4) All Grays Harbor Salmon Management and Catch Reporting Areas are closed to setline gear July 5 to July 31, 1989.

NEW SECTION

WAC 220-40-02100P WILLAPA HARBOR GILL NET SEASON Notwithstanding the provisions of WAC 220-40-021 and WAC 220-40-031, effective July 5 to August 15, 1989 it is unlawful to take, fish for, or possess salmon and sturgeon for commercial purposes from Willapa Harbor Salmon Management and Catch Reporting Areas except as provided for in this section.

(1) Areas 2G and 2H west of the Willapa Channel Marker 35 open continuously 6:00 PM July 5 to 6:00 PM August 15, except Area 2G is closed west of a line drawn true north south through Buoy 10 from 8:00 PM to 6:00 AM nightly.

(2) Gill net mesh is restricted to a 5 inch minimum.

(3) July 5 to July 31, 1989, white sturgeon must be released immediately and returned to the water.

(4) All Willapa Harbor Salmon Management and Catch Reporting Areas are closed to set line gear July 5 to July 31, 1989.

WSR 89-14-050
EMERGENCY RULES
DEPARTMENT OF REVENUE
 [Order FT-89-1—Filed June 30, 1989]

I, William R. Wilkerson, director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to taxation of forest land and timber, amending sections to chapter 458-40 WAC.

I, William R. Wilkerson, 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 chapter 84.33 RCW requires stumpage values for timber be shown on tables prepared by the Department of Revenue each year on or before December 31 for use the following January through June 30, and on or before June 30 for use the following July through December 31. These stumpage values shall, in accordance with the policy of the Department of Revenue, reflect the most recent sales data which is available.

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

This rule is promulgated pursuant to chapter 84.33 RCW and RCW 84.33.091 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 30, 1989.

By John B. Conklin
 Assistant Director
 Forest Tax Division

AMENDATORY SECTION (Amending Order FT-88-5, filed 12/30/88)

WAC 458-40-660 **TIMBER EXCISE TAX—STUMPAGE VALUE TABLES.** The following stumpage value tables are hereby adopted for use in reporting the taxable value of stumpage harvested during the period ((January)) July 1 through ((June 30)) December 31, 1989:

((TABLE 1—Stumpage Value Table
 Stumpage Value Area 1
 January 1 through June 30, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
 Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			Distance				
			1	2	3	4	5
Douglas-Fir	DF	1	\$341	\$334	\$327	\$320	\$313
		2	294	287	280	273	266
		3	269	262	255	248	241
		4	246	239	232	225	218
		5	193	186	179	172	165
		6	145	138	131	124	117
Western Redcedar ²	RC	1	446	439	432	425	418
		2	431	424	417	410	403
		3	283	276	269	262	255
		4	204	197	190	183	176
Sitka Spruce	SS	1	496	489	482	475	468
		2	448	441	434	427	420
		3	245	238	231	224	217
		4	213	206	199	192	185
		5	168	161	154	147	140
		6	119	112	105	98	91
Western Hemlock ³	WH	1	335	328	321	314	307
		2	240	233	226	219	212
		3	213	206	199	192	185
		4	194	187	180	173	166
		5	153	146	139	132	125
		6	67	60	53	46	39
Other Conifer	OC	1	335	328	321	314	307
		2	240	233	226	219	212
		3	213	206	199	192	185
		4	194	187	180	173	166
		5	153	146	139	132	125
		6	67	60	53	46	39
Red Alder	RA	1	74	67	60	53	46
Black Cottonwood	BC	1	31	24	17	10	3
Other Hardwood	OH	1	31	24	17	10	3
Hardwood Utility	HU	5	16	16	16	16	16
Conifer Utility	CU	5	6	6	6	6	6

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Alaska Cedar.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 2—Stumpage Value Table
 Stumpage Value Area 1
 January 1 through June 30, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
 Stumpage Values per Product Unit

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			Distance				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$342	\$335	\$328	\$321	\$314
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	153	146	139	132	125

TABLE 2—cont.
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality		Hauling Distance Zone Number			
		Code Number	1	2	3	4	5
Western Redcedar & Other Posts ¹	RCP	1	0.76	0.76	0.76	0.76	0.76
Douglas-Fir Christmas Trees ²	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

TABLE 3—Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality		Hauling Distance Zone Number			
		Code Number	1	2	3	4	5
Douglas-Fir	DF	1	\$397	\$390	\$383	\$376	\$369
		2	380	373	366	359	352
		3	317	310	303	296	289
		4	255	248	241	234	227
		5	193	186	179	172	165
		6	145	138	131	124	117
Western Redcedar ²	RC	1	395	388	381	374	367
		2	393	386	379	372	365
		3	309	302	295	288	281
		4	167	160	153	146	139
Sitka Spruce	SS	1	482	475	468	461	454
		2	169	162	155	148	141
		3	163	156	149	142	135
		4	129	122	115	108	101
		5	116	109	102	95	88
		6	104	97	90	83	76
Western Hemlock ³	WH	1	297	290	283	276	269
		2	240	233	226	219	212
		3	220	213	206	199	192
		4	175	168	161	154	147
		5	131	124	117	110	103
		6	57	50	43	36	29
Other Conifer	OC	1	297	290	283	276	269
		2	240	233	226	219	212
		3	220	213	206	199	192
		4	175	168	161	154	147
		5	131	124	117	110	103
		6	57	50	43	36	29
Red Alder	RA	1	68	61	54	47	40
Black Cottonwood	BC	1	31	24	17	10	3
Other Hardwood	OH	1	31	24	17	10	3
Hardwood Utility	HU	5	16	16	16	16	16
Conifer Utility	CU	5	6	6	6	6	6

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Alaska-Cedar.
³Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."⁴

TABLE 4—Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality		Hauling Distance Zone Number			
		Code Number	1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$342	\$335	\$328	\$321	\$314
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	153	146	139	132	125
Western Redcedar & Other Posts ²	RCP	1	0.76	0.76	0.76	0.76	0.76
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

TABLE 5—Stumpage Value Table
Stumpage Value Area 3
January 1 through June 30, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality		Hauling Distance Zone Number			
		Code Number	1	2	3	4	5
Douglas-Fir ²	DF	1	\$420	\$413	\$406	\$399	\$392
		2	343	336	329	322	315
		3	324	317	310	303	296
		4	293	286	279	272	265
		5	167	160	153	146	139
		6	161	154	147	140	133
Western Redcedar ³	RC	1	396	389	382	375	368
		2	336	329	322	315	308
		3	230	223	216	209	202
		4	210	203	196	189	182
Western Hemlock ⁴	WH	1	380	373	366	359	352
		2	276	269	262	255	248
		3	190	183	176	169	162
		4	154	147	140	133	126
		5	103	96	89	82	75
		6	88	81	74	67	60
Other Conifer	OC	1	380	373	366	359	352
		2	276	269	262	255	248
		3	190	183	176	169	162
		4	154	147	140	133	126
		5	103	96	89	82	75
		6	88	81	74	67	60
Red Alder	RA	1	58	51	44	37	30
Black Cottonwood	BC	1	31	24	17	10	3
Other Hardwood	OH	1	31	24	17	10	3
Hardwood Utility	HU	5	16	16	16	16	16

TABLE 5—cont.

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Conifer Utility	CU	5	6	6	6	6	6

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

**TABLE 6—Stumpage Value Table
Stumpage Value Area 3
January 1 through June 30, 1989**

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5

Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$342	\$335	\$328	\$321	\$314
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Western Redcedar Flatsawn & Shingle Blocks	RCF	1	153	146	139	132	125
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Western Redcedar & Other Posts ²	RCP	1	0.76	0.76	0.76	0.76	0.76
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Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
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True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50
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¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

²Stumpage value per 8 lineal feet or portion thereof.

³Stumpage value per lineal foot.

**TABLE 7—Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 1989**

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$396	\$389	\$382	\$375	\$368
		2	292	285	278	271	264
		3	287	280	273	266	259
		4	209	202	195	188	181
		5	167	160	153	146	139
		6	161	154	147	140	133
Western Redcedar ³	RC	1	470	463	456	449	442
		2	292	285	278	271	264
		3	262	255	248	241	234
		4	203	196	189	182	175

TABLE 7—cont.

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Western Hemlock ⁴	WH	1	396	389	382	375	368
		2	278	271	264	257	250
		3	217	210	203	196	189
		4	183	176	169	162	155
		5	167	160	153	146	139
		6	123	116	109	102	95
Other Conifer	OC	1	396	389	382	375	368
		2	278	271	264	257	250
		3	217	210	203	196	189
		4	183	176	169	162	155
		5	167	160	153	146	139
		6	123	116	109	102	95
Red Alder	RA	1	67	60	53	46	39
Black Cottonwood	BC	1	31	24	17	10	3
Other Hardwood	OH	1	31	24	17	10	3
Hardwood Utility	HU	5	16	16	16	16	16
Conifer Utility	CU	5	6	6	6	6	6

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

**TABLE 8—Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 1989**

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5

Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$342	\$335	\$328	\$321	\$314
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Western Redcedar Flatsawn & Shingle Blocks	RCF	1	153	146	139	132	125
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Western Redcedar & Other Posts ²	RCP	1	0.76	0.76	0.76	0.76	0.76
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Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
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True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50
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¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

²Stumpage value per 8 lineal feet or portion thereof.

³Stumpage value per lineal foot.

TABLE 9—Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$469	\$462	\$455	\$448	\$441
		2	317	310	303	296	289
		3	278	271	264	257	250
		4	177	170	163	156	149
		5	166	159	152	145	138
		6	161	154	147	140	133
Western Redcedar ³	RC	1	402	395	388	381	374
		2	273	266	259	252	245
		3	245	238	231	224	217
		4	187	180	173	166	159
Western Hemlock ⁴	WH	1	434	427	420	413	406
		2	238	231	224	217	210
		3	222	215	208	201	194
		4	181	174	167	160	153
		5	107	100	93	86	79
		6	73	66	59	52	45
Other Conifer	OC	1	434	427	420	413	406
		2	238	231	224	217	210
		3	222	215	208	201	194
		4	181	174	167	160	153
		5	107	100	93	86	79
		6	73	66	59	52	45
Red Alder	RA	1	70	63	56	49	42
Black Cottonwood	BC	1	31	24	17	10	3
Other Hardwood	OH	1	31	24	17	10	3
Hardwood Utility	HU	5	16	16	16	16	16
Conifer Utility	CU	5	6	6	6	6	6

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska-Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 10—Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$342	\$335	\$328	\$321	\$314
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	153	146	139	132	125
Western Redcedar & Other Posts ²	RCP	1	0.76	0.76	0.76	0.76	0.76

TABLE 10—cont.
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

²Stumpage value per 8 lineal feet or portion thereof.

³Stumpage value per lineal foot.

TABLE 11—Stumpage Value Table
Stumpage Value Area 6
January 1 through June 30, 1989

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$158	\$152	\$146	\$140	\$134
Engelmann Spruce	ES	1	104	98	92	86	80
Lodgepole Pine	LP	1	76	70	64	58	52
Ponderosa Pine	PP	1	240	234	228	222	216
		2	164	158	152	146	140
Western Redcedar ³	RC	1	139	133	127	121	115
True Firs ⁴	WH	1	118	112	106	100	94
Western White Pine	WP	1	197	191	185	179	173
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	18	18	18	18	18

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska-Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 12—Stumpage Value Table
Stumpage Value Area 6
January 1 through June 30, 1989

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.25	0.25	0.25	0.25	0.25

TABLE 12—cont.
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴Stumpage value per lineal foot.

TABLE 13—Stumpage Value Table
Stumpage Value Area 7
January 1 through June 30, 1989

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$107	\$101	\$95	\$89	\$83
Engelmann Spruce	ES	1	86	80	74	68	62
Lodgepole Pine	LP	1	81	75	69	63	57
Ponderosa Pine	PP	1	166	160	154	148	142
		2	118	112	106	100	94
Western Redcedar ³	RC	1	153	147	141	135	129
True Firs ⁴	WH	1	92	86	80	74	68
Western White Pine	WP	1	181	175	169	163	157
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	10	10	10	10	10

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska Cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as ¹White Fir.³

TABLE 14—Stumpage Value Table
Stumpage Value Area 7
January 1 through June 30, 1989

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30

TABLE 14—cont.
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Lodgepole Pine & Other Posts ²	LPP	1	0.25	0.25	0.25	0.25	0.25
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25

Douglas-Fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25
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¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴Stumpage value per lineal foot.

TABLE 15—Stumpage Value Table
Stumpage Value Area 10
January 1 through June 30, 1989

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$230	\$224	\$218	\$212	\$206
		2	186	180	174	168	162
		3	138	132	126	120	114
Engelmann Spruce	ES	1	118	112	106	100	94
		2	110	104	98	92	86
		3	108	102	96	90	84
Lodgepole Pine	LP	1	125	119	113	107	101
		2	115	109	103	97	91
		3	105	99	93	87	81
Ponderosa Pine	PP	1	256	250	244	238	232
		2	246	240	234	228	222
		3	150	144	138	132	126
Western Redcedar ³	RC	1	149	143	137	131	125
		2	136	130	124	118	112
		3	126	120	114	108	102
True Firs ⁴	WH	1	277	271	265	259	253
		2	221	215	209	203	197
		3	157	151	145	139	133
Western White Pine	WP	1	359	353	347	341	335
		2	240	234	228	222	216
		3	121	115	109	103	97
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	7	7	7	7	7

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska Cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as ¹White Fir.³

TABLE 16—Stumpage Value Table
Stumpage Value Area 10
January 1 through June 30, 1989

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.25	0.25	0.25	0.25	0.25
Pine Christmas Trees	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir & Other Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴ Stumpage value per lineal foot.)

TABLE 1—Stumpage Value Table
Stumpage Value Area 1
July 1 through December 31, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$375	\$368	\$361	\$354	\$347
		2	309	302	295	288	281
		3	305	298	291	284	277
		4	253	246	239	232	225
		5	200	193	186	179	172
		6	133	126	119	112	105
Western Redcedar ²	RC	1	492	485	478	471	464
		2	464	457	450	443	436
		3	269	262	255	248	241
		4	249	242	235	228	221
Sitka Spruce	SS	1	480	473	466	459	452
		2	440	433	426	419	412
		3	276	269	262	255	248
		4	209	202	195	188	181
		5	185	178	171	164	157
		6	146	139	132	125	118
Western Hemlock ³	WH	1	392	385	378	371	364
		2	264	257	250	243	236
		3	213	206	199	192	185
		4	212	205	198	191	184
		5	187	180	173	166	159
		6	115	108	101	94	87
Other Conifer	OC	1	392	385	378	371	364
		2	264	257	250	243	236
		3	213	206	199	192	185
		4	212	205	198	191	184
		5	187	180	173	166	159
		6	115	108	101	94	87
Red Alder	RA	1	101	94	87	80	73
Black Cottonwood	BC	1	52	45	38	31	24

TABLE 1—cont.

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Other Hardwood	OH	1	70	63	56	49	42
Hardwood Utility	HU	5	23	23	23	23	23
Conifer Utility	CU	5	10	10	10	10	10

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Alaska-Cedar.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 2—Stumpage Value Table
Stumpage Value Area 1
July 1 through December 31, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$409	\$402	\$395	\$388	\$381
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	158	151	144	137	130
Western Redcedar & Other Posts ²	RCP	1	0.54	0.54	0.54	0.54	0.54
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 3—Stumpage Value Table
Stumpage Value Area 2
July 1 through December 31, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$446	\$439	\$432	\$425	\$418
		2	347	340	333	326	319
		3	284	277	270	263	256
		4	235	228	221	214	207
		5	175	168	161	154	147
		6	158	151	144	137	130
Western Redcedar ²	RC	1	516	509	502	495	488
		2	445	438	431	424	417
		3	371	364	357	350	343
		4	176	169	162	155	148

TABLE 3—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Sitka Spruce	SS	1	428	421	414	407	400
		2	254	247	240	233	226
		3	231	224	217	210	203
		4	223	216	209	202	195
		5	182	175	168	161	154
		6	140	133	126	119	112
Western Hemlock ³	WH	1	276	269	262	255	248
		2	263	256	249	242	235
		3	225	218	211	204	197
		4	207	200	193	186	179
		5	143	136	129	122	115
		6	65	58	51	44	37
Other Conifer	OC	1	276	269	262	255	248
		2	263	256	249	242	235
		3	225	218	211	204	197
		4	207	200	193	186	179
		5	143	136	129	122	115
		6	65	58	51	44	37
Red Alder	RA	1	79	72	65	58	51
Black Cottonwood	BC	1	52	45	38	31	24
Other Hardwood	OH	1	70	63	56	49	42
Hardwood Utility	HU	5	23	23	23	23	23
Conifer Utility	CU	5	6	6	6	6	6

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Alaska-Cedar.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 4—Stumpage Value Table
Stumpage Value Area 2
July 1 through December 31, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$409	\$402	\$395	\$388	\$381
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	158	151	144	137	130
Western Redcedar & Other Posts ²	RCP	1	0.54	0.54	0.54	0.54	0.54
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 5—Stumpage Value Table
Stumpage Value Area 3
July 1 through December 31, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$480	\$473	\$466	\$459	\$452
		2	334	327	320	313	306
		3	320	313	306	299	292
		4	316	309	302	295	288
		5	200	193	186	179	172
		6	133	126	119	112	105
Western Redcedar ³	RC	1	399	392	385	378	371
		2	356	349	342	335	328
		3	279	272	265	258	251
		4	252	245	238	231	224
Western Hemlock ⁴	WH	1	349	342	335	328	321
		2	307	300	293	286	279
		3	243	236	229	222	215
		4	235	228	221	214	207
		5	159	152	145	138	131
		6	123	116	109	102	95
Other Conifer	OC	1	349	342	335	328	321
		2	307	300	293	286	279
		3	243	236	229	222	215
		4	235	228	221	214	207
		5	159	152	145	138	131
		6	123	116	109	102	95
Red Alder	RA	1	94	87	80	73	66
Black Cottonwood	BC	1	52	45	38	31	24
Other Hardwood	OH	1	70	63	56	49	42
Hardwood Utility	HU	5	23	23	23	23	23
Conifer Utility	CU	5	15	15	15	15	15

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 6—Stumpage Value Table
Stumpage Value Area 3
July 1 through December 31, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar-Shake Blocks & Boards ¹	RCS	1	\$409	\$402	\$395	\$388	\$381
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	158	151	144	137	130
Western Redcedar & Other Posts ²	RCP	1	0.54	0.54	0.54	0.54	0.54

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.

TABLE 6—cont.
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir Christmas Trees	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 7—Stumpage Value Table
Stumpage Value Area 4
July 1 through December 31, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$389	\$382	\$375	\$368	\$361
		2	322	315	308	301	294
		3	298	291	284	277	270
		4	222	215	208	201	194
		5	180	173	166	159	152
		6	132	125	118	111	104
Western Redcedar ³	RC	1	441	434	427	420	413
		2	318	311	304	297	290
		3	270	263	256	249	242
		4	242	235	228	221	214
Western Hemlock ⁴	WH	1	376	369	362	355	348
		2	279	272	265	258	251
		3	238	231	224	217	210
		4	231	224	217	210	203
		5	158	151	144	137	130
		6	141	134	127	120	113
Other Conifer	OC	1	376	369	362	355	348
		2	279	272	265	258	251
		3	238	231	224	217	210
		4	231	224	217	210	203
		5	158	151	144	137	130
		6	141	134	127	120	113
Red Alder	RA	1	73	66	59	52	45
Black Cottonwood	BC	1	52	45	38	31	24
Other Hardwood	OH	1	70	63	56	49	42
Hardwood Utility	HU	5	23	23	23	23	23
Conifer Utility	CU	5	6	6	6	6	6

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 8—Stumpage Value Table
Stumpage Value Area 4
July 1 through December 31, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$409	\$402	\$395	\$388	\$381
		1	158	151	144	137	130
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	158	151	144	137	130
		1	0.54	0.54	0.54	0.54	0.54
Western Redcedar & Other Posts ²	RCP	1	0.54	0.54	0.54	0.54	0.54
		1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 9—Stumpage Value Table
Stumpage Value Area 5
July 1 through December 31, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$490	\$483	\$476	\$469	\$462
		2	296	289	282	275	268
		3	290	283	276	269	262
		4	214	207	200	193	186
		5	174	167	160	153	146
		6	133	126	119	112	105
Western Redcedar ³	RC	1	514	507	500	493	486
		2	488	481	474	467	460
		3	384	377	370	363	356
		4	216	209	202	195	188
Western Hemlock ⁴	WH	1	410	403	396	389	382
		2	334	327	320	313	306
		3	211	204	197	190	183
		4	195	188	181	174	167
		5	143	136	129	122	115
		6	130	123	116	109	102
Other Conifer	OC	1	410	403	396	389	382
		2	334	327	320	313	306
		3	211	204	197	190	183
		4	195	188	181	174	167
		5	143	136	129	122	115
		6	130	123	116	109	102
Red Alder	RA	1	88	81	74	67	60
Black Cottonwood	BC	1	52	45	38	31	24
Other Hardwood	OH	1	70	63	56	49	42
Hardwood Utility	HU	5	23	23	23	23	23

TABLE 9—cont.

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Conifer Utility	CU	5	7	7	7	7	7

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Western Larch.

³ Includes Alaska-Cedar.

⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 10—Stumpage Value Table

Stumpage Value Area 5

July 1 through December 31, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$409	\$402	\$395	\$388	\$381
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	158	151	144	137	130
Western Redcedar & Other Posts ²	RCP	1	0.54	0.54	0.54	0.54	0.54
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ⁴	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

² Stumpage value per 8 lineal feet or portion thereof.

³ Stumpage value per lineal foot.

TABLE 11—Stumpage Value Table

Stumpage Value Area 6

July 1 through December 31, 1989

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$180	\$174	\$168	\$162	\$156
Engelmann Spruce	ES	1	79	73	67	61	55
Lodgepole Pine	LP	1	79	73	67	61	55
Ponderosa Pine	PP	1	311	305	299	293	287
		2	143	137	131	125	119
Western Redcedar ³	RC	1	169	163	157	151	145
True Firs ⁴	WH	1	135	129	123	117	111
Western White Pine	WP	1	169	163	157	151	145

TABLE 11—cont.

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	12	12	12	12	12

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Western Larch.

³ Includes Alaska-Cedar.

⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 12—Stumpage Value Table

Stumpage Value Area 6

July 1 through December 31, 1989

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

² Stumpage value per 8 lineal feet or portion thereof.

³ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁴ Stumpage value per lineal foot.

TABLE 13—Stumpage Value Table

Stumpage Value Area 7

July 1 through December 31, 1989

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$114	\$108	\$102	\$96	\$90
Engelmann Spruce	ES	1	87	81	75	69	63
Lodgepole Pine	LP	1	93	87	81	75	69
Ponderosa Pine	PP	1	178	172	166	160	154
		2	118	112	106	100	94
Western Redcedar ³	RC	1	164	158	152	146	140
True Firs ⁴	WH	1	90	84	78	72	66
Western White Pine	WP	1	202	196	190	184	178

TABLE 13—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	11	11	11	11	11

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska-Cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 14—Stumpage Value Table
Stumpage Value Area 7
July 1 through December 31, 1989

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5

Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
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Lodgepole Pine & Other Posts ²	LPP	1	0.35	0.35	0.35	0.35	0.35
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Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
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Douglas-Fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25
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¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴Stumpage value per lineal foot.

TABLE 15—Stumpage Value Table
Stumpage Value Area 10
July 1 through December 31, 1989

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$289	\$283	\$277	\$271	\$265
		2	198	192	186	180	174
		3	129	123	117	111	105
Engelmann Spruce	ES	1	122	116	110	104	98
		2	117	111	105	99	93
		3	112	106	100	94	88
Lodgepole Pine	LP	1	117	111	105	99	93
		2	112	106	100	94	88
		3	106	100	94	88	82
Ponderosa Pine	PP	1	230	224	218	212	206
		2	212	206	200	194	188
		3	120	114	108	102	96

TABLE 15—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar ³	RC	1	269	263	257	251	245
		2	198	192	186	180	174
		3	127	121	115	109	103
True Firs ⁴	WH	1	326	320	314	308	302
		2	190	184	178	172	166
		3	151	145	139	133	127
Western White Pine	WP	1	224	218	212	206	200
		2	206	200	194	188	182
		3	128	122	116	110	104
Hardwoods	OH	1	61	55	49	43	37
Utility	CU	5	7	7	7	7	7

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska-Cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 16—Stumpage Value Table
Stumpage Value Area 10
July 1 through December 31, 1989

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5

Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
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Lodgepole Pine & Other Posts ²	LPP	1	0.35	0.35	0.35	0.35	0.35
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Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
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Douglas-Fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25
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¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴Stumpage value per lineal foot.

AMENDATORY SECTION (Amending Order FT-88-5, filed 12/30/88)

WAC 458-40-670 TIMBER EXCISE TAX—STUMPAGE VALUE ADJUSTMENTS. Harvest value adjustments relating to the various logging and harvest conditions shall be allowed against the stumpage values as set forth in WAC 458-40-660 for the designated stumpage value areas with the following limitations:

(1) No harvest adjustment shall be allowed against conifer utility, hardwood utility, or any of the special forest products.

(2) Stumpage value rates for conifer and hardwoods shall be adjusted to a value no lower than one dollar per MBF.

(3) Timber harvesters planning to remove timber from areas having damaged timber may apply to the department for adjustment in stumpage values. Such applications should contain a map with the legal descriptions of the area, a description of the damage sustained by the timber, and a list of estimated costs to be incurred. Such applications shall be sent to the department before the harvest commences. Upon receipt of such application, the department will determine the amount of adjustment allowed, and notify the harvester. Such amount may be taken as a credit against tax liabilities or, if harvest is terminated, a refund may be authorized. In the event the extent of such timber damage or additional costs are not known at the time the application is filed, the harvester may supplement the application not later than ninety days following completion of the harvest unit.

The following harvest adjustment tables are hereby adopted for use during the period of ~~((January))~~ July 1 through ~~((June 30))~~ December 31, 1989:

**TABLE 1—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, and 5
~~((January))~~ July 1 through
~~((June 30))~~ December 31, 1989**

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 40 thousand board feet per acre.	\$0.00
Class 2	Harvest of 20 thousand board feet to 40 thousand board feet per acre.	– \$4.00
Class 3	Harvest of 10 thousand board feet to but not including 20 thousand board feet per acre.	– \$7.00
Class 4	Harvest of 5 thousand board feet to but not including 10 thousand board feet per acre.	– \$9.00
Class 5	Harvest of less than 5 thousand board feet per acre.	– \$10.00
II. Logging conditions		
Class 1	Favorable logging conditions and easy road construction. No significant rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	\$0.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	((–\$15.00)) – \$18.00
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	((–\$31.00)) – \$35.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	((–\$78.00)) – \$92.00

TABLE 1—cont.

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
--------------------	------------	--

III. Remote island adjustment:

For timber harvested from a remote island – \$50.00

IV. Thinning (see WAC 458-40-610(20))

Class 1 Average log volume of 50 board feet or more. – \$25.00

Class 2 Average log volume of less than 50 board feet. – \$35.00

**TABLE 2—Harvest Adjustment Table
Stumpage Value Areas 6, 7, and 10
~~((January))~~ July 1 through
~~((June 30))~~ December 31, 1989**

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
--------------------	------------	--

I. Volume per acre

Class 1 Harvest of more than 8 thousand board feet per acre. \$0.00

Class 2 Harvest of 3 thousand board feet to 8 thousand board feet per acre. – \$7.00

Class 3 Harvest of less than 3 thousand board feet per acre. – \$10.00

II. Logging conditions

Class 1 Favorable logging conditions and easy road construction. No significant rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%. \$0.00

Class 2 Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%. ~~((–\$13.00))~~
– \$18.00

Class 3 Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%. ~~((–\$26.00))~~
– \$35.00

Class 4 For logs which are yarded from stump to landing by helicopter. This does not include special forest products. ~~((–\$78.00))~~
– \$92.00

III. Remote island adjustment:

For timber harvested from a remote island – \$50.00

Table 3—Domestic Market Adjustment

Harvest of timber not sold by a competitive bidding process which is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber which must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska yellow cedar. (Stat. Ref. – 36 CFR 223.10)

State Timber Sales: Western red cedar only. (Stat. Ref. – 50 USC appendix 2406.1)

The adjustment amounts shall be as follows:

- Class 1: All eligible species in Western Washington (SVA's 1 through 5) ((-\$34.00)) - \$28.00 per MBF
- Class 2: All eligible species in Eastern Washington (SVA's 6, 7, and 10) ((-\$19.00)) - \$17.00 per MBF

Note: The adjustment will not be allowed on conifer utility, hardwood utility or special forest products.

WSR 89-14-051
ADOPTED RULES
DEPARTMENT OF REVENUE
 [Order FT-89-2—Filed June 30, 1989]

I, William R. Wilkerson, director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to taxation of forest land and timber, amending sections to chapter 458-40 WAC.

This action is taken pursuant to Notice No. WSR 89-10-061 filed with the code reviser on May 3, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 84.33 RCW and RCW 84.33.091 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 30, 1989.

By John B. Conklin
 Assistant Director
 Forest Tax Division

AMENDATORY SECTION (Amending Order FT-88-5, filed 12/30/88)

WAC 458-40-660 **TIMBER EXCISE TAX—STUMPAGE VALUE TABLES.** The following stumpage value tables are hereby adopted for use in reporting the taxable value of stumpage harvested during the period ((January)) July 1 through ((June 30)) December 31, 1989:

((TABLE 1—Stumpage Value Table
 Stumpage Value Area 1
 January 1 through June 30, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
 Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Name	Species Code	Timber Quality		Hauling Distance Zone Number			
		Code	Number	1	2	3	4
Douglas-Fir	DF	1	\$341	\$334	\$327	\$320	\$313
		2	294	287	280	273	266
		3	269	262	255	248	241
		4	246	239	232	225	218
		5	193	186	179	172	165
		6	145	138	131	124	117

TABLE 1—cont.
 Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Name	Species Code	Code Number	Timber Quality		Hauling Distance Zone Number		
			Code	Number	1	2	3
Western Redcedar ²	RC	1	446	439	432	425	418
		2	431	424	417	410	403
		3	283	276	269	262	255
		4	204	197	190	183	176
Sitka Spruce	SS	1	496	489	482	475	468
		2	448	441	434	427	420
		3	245	238	231	224	217
		4	213	206	199	192	185
		5	168	161	154	147	140
		6	119	112	105	98	91
Western Hemlock ³	WH	1	335	328	321	314	307
		2	240	233	226	219	212
		3	213	206	199	192	185
		4	194	187	180	173	166
		5	153	146	139	132	125
		6	67	60	53	46	39
Other Conifer	OC	1	335	328	321	314	307
		2	240	233	226	219	212
		3	213	206	199	192	185
		4	194	187	180	173	166
		5	153	146	139	132	125
		6	67	60	53	46	39
Red Alder	RA	1	74	67	60	53	46
Black Cottonwood	BC	1	31	24	17	10	3
Other Hardwood	OH	1	31	24	17	10	3
Hardwood Utility	HU	5	16	16	16	16	16
Conifer Utility	CU	5	6	6	6	6	6

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Alaska Cedar.

³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 2—Stumpage Value Table
 Stumpage Value Area 1
 January 1 through June 30, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
 Stumpage Values per Product Unit

Species Name	Species Code	Code Number	Timber Quality		Hauling Distance Zone Number		
			Code	Number	1	2	3
Western Redcedar Shake Blocks & Boards	RCS	1	\$342	\$335	\$328	\$321	\$314
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	153	146	139	132	125
Western Redcedar & Other Posts ²	RCP	1	0.76	0.76	0.76	0.76	0.76
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

TABLE 3—Stumpage Value Table
Stumpage Value Area 2
 January 1 through June 30, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
 Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$397	\$390	\$383	\$376	\$369
		2	380	373	366	359	352
		3	317	310	303	296	289
		4	255	248	241	234	227
		5	193	186	179	172	165
		6	145	138	131	124	117
Western Redcedar ²	RC	1	395	388	381	374	367
		2	393	386	379	372	365
		3	309	302	295	288	281
		4	167	160	153	146	139
Sitka Spruce	SS	1	482	475	468	461	454
		2	169	162	155	148	141
		3	163	156	149	142	135
		4	129	122	115	108	101
		5	116	109	102	95	88
		6	104	97	90	83	76
Western Hemlock ³	WH	1	297	290	283	276	269
		2	240	233	226	219	212
		3	220	213	206	199	192
		4	175	168	161	154	147
		5	131	124	117	110	103
		6	57	50	43	36	29
Other Conifer	OC	1	297	290	283	276	269
		2	240	233	226	219	212
		3	220	213	206	199	192
		4	175	168	161	154	147
		5	131	124	117	110	103
		6	57	50	43	36	29
Red Alder	RA	1	68	61	54	47	40
Black Cottonwood	BC	1	31	24	17	10	3
Other Hardwood	OH	1	31	24	17	10	3
Hardwood Utility	HU	5	16	16	16	16	16
Conifer Utility	CU	5	6	6	6	6	6

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Alaska-Cedar.
³Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as ⁴White Fir.⁴

TABLE 4—Stumpage Value Table
Stumpage Value Area 2
 January 1 through June 30, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
 Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$342	\$335	\$328	\$321	\$314

TABLE 4—cont.
 Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	153	146	139	132	125
Western Redcedar & Other Posts ²	RCP	1	0.76	0.76	0.76	0.76	0.76
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

TABLE 5—Stumpage Value Table
Stumpage Value Area 3
 January 1 through June 30, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
 Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$420	\$413	\$406	\$399	\$392
		2	343	336	329	322	315
		3	324	317	310	303	296
		4	293	286	279	272	265
		5	167	160	153	146	139
		6	161	154	147	140	133
Western Redcedar ³	RC	1	396	389	382	375	368
		2	336	329	322	315	308
		3	230	223	216	209	202
		4	210	203	196	189	182
Western Hemlock ⁴	WH	1	380	373	366	359	352
		2	276	269	262	255	248
		3	190	183	176	169	162
		4	154	147	140	133	126
		5	103	96	89	82	75
		6	88	81	74	67	60
Other Conifer	OC	1	380	373	366	359	352
		2	276	269	262	255	248
		3	190	183	176	169	162
		4	154	147	140	133	126
		5	103	96	89	82	75
		6	88	81	74	67	60
Red Alder	RA	1	58	51	44	37	30
Black Cottonwood	BC	1	31	24	17	10	3
Other Hardwood	OH	1	31	24	17	10	3
Hardwood Utility	HU	5	16	16	16	16	16
Conifer Utility	CU	5	6	6	6	6	6

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska-Cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as ⁴White Fir.⁴

TABLE 6—Stumpage Value Table
Stumpage Value Area 3
January 1 through June 30, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality		Hauling Distance Zone Number				
		Code	Number	1	2	3	4	5
Western Redcedar-Shake Blocks & Boards ¹	RCS	1	\$342	\$335	\$328	\$321	\$314	
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	153	146	139	132	125	
Western Redcedar & Other Posts ²	RCP	1	0.76	0.76	0.76	0.76	0.76	
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25	
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50	

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

TABLE 7—Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality		Hauling Distance Zone Number				
		Code	Number	1	2	3	4	5
Douglas-Fir ²	DF	1	\$396	\$389	\$382	\$375	\$368	
		2	292	285	278	271	264	
		3	287	280	273	266	259	
		4	209	202	195	188	181	
		5	167	160	153	146	139	
		6	161	154	147	140	133	
Western Redcedar ³	RC	1	470	463	456	449	442	
		2	292	285	278	271	264	
		3	262	255	248	241	234	
		4	203	196	189	182	175	
Western Hemlock ⁴	WH	1	396	389	382	375	368	
		2	278	271	264	257	250	
		3	217	210	203	196	189	
		4	183	176	169	162	155	
		5	167	160	153	146	139	
		6	123	116	109	102	95	
Other Conifer	OC	1	396	389	382	375	368	
		2	278	271	264	257	250	
		3	217	210	203	196	189	
		4	183	176	169	162	155	
		5	167	160	153	146	139	
		6	123	116	109	102	95	
Red Alder	RA	1	67	60	53	46	39	
Black Cottonwood	BC	1	31	24	17	10	3	
Other Hardwood	OH	1	31	24	17	10	3	
Hardwood Utility	HU	5	16	16	16	16	16	

TABLE 7—cont:
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality		Hauling Distance Zone Number				
		Code	Number	1	2	3	4	5
Comifer Utility	CU	5	6	6	6	6	6	6

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska-Cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 8—Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality		Hauling Distance Zone Number				
		Code	Number	1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$342	\$335	\$328	\$321	\$314	
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	153	146	139	132	125	
Western Redcedar & Other Posts ²	RCP	1	0.76	0.76	0.76	0.76	0.76	
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25	
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50	

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

TABLE 9—Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality		Hauling Distance Zone Number				
		Code	Number	1	2	3	4	5
Douglas-Fir ²	DF	1	\$469	\$462	\$455	\$448	\$441	
		2	317	310	303	296	289	
		3	278	271	264	257	250	
		4	177	170	163	156	149	
		5	166	159	152	145	138	
		6	161	154	147	140	133	
Western Redcedar ³	RC	1	402	395	388	381	374	
		2	273	266	259	252	245	
		3	245	238	231	224	217	
		4	187	180	173	166	159	
Western Hemlock ⁴	WH	1	434	427	420	413	406	
		2	238	231	224	217	210	
		3	222	215	208	201	194	

TABLE 9—cont:
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		4	181	174	167	160	153
		5	107	100	93	86	79
		6	73	66	59	52	45
Other Conifer	OC	1	434	427	420	413	406
		2	238	231	224	217	210
		3	222	215	208	201	194
		4	181	174	167	160	153
		5	107	100	93	86	79
		6	73	66	59	52	45
Red Alder	RA	1	70	63	56	49	42
Black Cottonwood	BC	1	31	24	17	10	3
Other Hardwood	OH	1	31	24	17	10	3
Hardwood Utility	HU	5	16	16	16	16	16
Conifer Utility	CU	5	6	6	6	6	6

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska-Cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 10—Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$342	\$335	\$328	\$321	\$314
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	153	146	139	132	125
Western Redcedar & Other Posts ²	RCP	1	0.76	0.76	0.76	0.76	0.76
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

TABLE 11—Stumpage Value Table
Stumpage Value Area 6
January 1 through June 30, 1989

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$158	\$152	\$146	\$140	\$134
Engelmann Spruce	ES	1	104	98	92	86	80
Lodgepole Pine	LP	1	76	70	64	58	52
Ponderosa Pine	PP	1	240	234	228	222	216
		2	164	158	152	146	140
Western Redcedar ³	RC	1	139	133	127	121	115
True Firs ⁴	WH	1	118	112	106	100	94
Western White Pine	WP	1	197	191	185	179	173
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	18	18	18	18	18

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska-Cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 12—Stumpage Value Table
Stumpage Value Area 6
January 1 through June 30, 1989

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.25	0.25	0.25	0.25	0.25
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴Stumpage value per lineal foot.

**TABLE 13—Stumpage Value Table
Stumpage Value Area 7
January 1 through June 30, 1989**

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$107	\$101	\$95	\$89	\$83
Engelmann Spruce	ES	1	86	80	74	68	62
Lodgepole Pine	LP	1	81	75	69	63	57
Ponderosa Pine	PP	1	166	160	154	148	142
		2	118	112	106	100	94
Western Redcedar ³	RC	1	153	147	141	135	129
True Firs ⁴	WH	1	92	86	80	74	68
Western White Pine	WP	1	181	175	169	163	157
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	10	10	10	10	10

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska-Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

**TABLE 14—Stumpage Value Table
Stumpage Value Area 7
January 1 through June 30, 1989**

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.25	0.25	0.25	0.25	0.25
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

²Stumpage value per 8 lineal feet or portion thereof.

³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁴Stumpage value per lineal foot.

**TABLE 15—Stumpage Value Table
Stumpage Value Area 10
January 1 through June 30, 1989**

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$230	\$224	\$218	\$212	\$206
		2	186	180	174	168	162
		3	138	132	126	120	114
Engelmann Spruce	ES	1	118	112	106	100	94
		2	110	104	98	92	86
		3	108	102	96	90	84
Lodgepole Pine	LP	1	125	119	113	107	101
		2	115	109	103	97	91
		3	105	99	93	87	81
Ponderosa Pine	PP	1	256	250	244	238	232
		2	246	240	234	228	222
		3	150	144	138	132	126
Western Redcedar ³	RC	1	149	143	137	131	125
		2	136	130	124	118	112
		3	126	120	114	108	102
True Firs ⁴	WH	1	277	271	265	259	253
		2	221	215	209	203	197
		3	157	151	145	139	133
Western White Pine	WP	1	359	353	347	341	335
		2	240	234	228	222	216
		3	121	115	109	103	97
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	7	7	7	7	7

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska-Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

**TABLE 16—Stumpage Value Table
Stumpage Value Area 10
January 1 through June 30, 1989**

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.25	0.25	0.25	0.25	0.25
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

²Stumpage value per 8 lineal feet or portion thereof.

²Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴Stumpage value per lineal foot.))

TABLE 1—Stumpage Value Table
Stumpage Value Area 1
July 1 through December 31, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$375	\$368	\$361	\$354	\$347
		2	309	302	295	288	281
		3	305	298	291	284	277
		4	253	246	239	232	225
		5	200	193	186	179	172
		6	133	126	119	112	105
Western Redcedar ²	RC	1	492	485	478	471	464
		2	464	457	450	443	436
		3	269	262	255	248	241
		4	249	242	235	228	221
Sitka Spruce	SS	1	480	473	466	459	452
		2	440	433	426	419	412
		3	276	269	262	255	248
		4	209	202	195	188	181
		5	185	178	171	164	157
		6	146	139	132	125	118
Western Hemlock ³	WH	1	392	385	378	371	364
		2	264	257	250	243	236
		3	213	206	199	192	185
		4	212	205	198	191	184
		5	187	180	173	166	159
		6	115	108	101	94	87
Other Conifer	OC	1	392	385	378	371	364
		2	264	257	250	243	236
		3	213	206	199	192	185
		4	212	205	198	191	184
		5	187	180	173	166	159
		6	115	108	101	94	87
Red Alder	RA	1	101	94	87	80	73
Black Cottonwood	BC	1	52	45	38	31	24
Other Hardwood	OH	1	70	63	56	49	42
Hardwood Utility	HU	5	23	23	23	23	23
Conifer Utility	CU	5	10	10	10	10	10

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Alaska-Cedar.
³Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 2—Stumpage Value Table
Stumpage Value Area 1
July 1 through December 31, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$409	\$402	\$395	\$388	\$381

TABLE 2—cont.
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	158	151	144	137	130
Western Redcedar & Other Posts ²	RCP	1	0.54	0.54	0.54	0.54	0.54
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

TABLE 3—Stumpage Value Table
Stumpage Value Area 2
July 1 through December 31, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$446	\$439	\$432	\$425	\$418
		2	347	340	333	326	319
		3	284	277	270	263	256
		4	235	228	221	214	207
		5	175	168	161	154	147
		6	158	151	144	137	130
Western Redcedar ²	RC	1	516	509	502	495	488
		2	445	438	431	424	417
		3	371	364	357	350	343
		4	176	169	162	155	148
Sitka Spruce	SS	1	428	421	414	407	400
		2	254	247	240	233	226
		3	231	224	217	210	203
		4	223	216	209	202	195
		5	182	175	168	161	154
		6	140	133	126	119	112
Western Hemlock ³	WH	1	276	269	262	255	248
		2	263	256	249	242	235
		3	225	218	211	204	197
		4	207	200	193	186	179
		5	143	136	129	122	115
		6	65	58	51	44	37
Other Conifer	OC	1	276	269	262	255	248
		2	263	256	249	242	235
		3	225	218	211	204	197
		4	207	200	193	186	179
		5	143	136	129	122	115
		6	65	58	51	44	37
Red Alder	RA	1	79	72	65	58	51
Black Cottonwood	BC	1	52	45	38	31	24
Other Hardwood	OH	1	70	63	56	49	42
Hardwood Utility	HU	5	23	23	23	23	23
Conifer Utility	CU	5	6	6	6	6	6

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Alaska-Cedar.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 4—Stumpage Value Table
Stumpage Value Area 2
July 1 through December 31, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$409	\$402	\$395	\$388	\$381
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	158	151	144	137	130
Western Redcedar & Other Posts ²	RCP	1	0.54	0.54	0.54	0.54	0.54
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 5—Stumpage Value Table
Stumpage Value Area 3
July 1 through December 31, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$480	\$473	\$466	\$459	\$452
		2	334	327	320	313	306
		3	320	313	306	299	292
		4	316	309	302	295	288
		5	200	193	186	179	172
		6	133	126	119	112	105
Western Redcedar ³	RC	1	399	392	385	378	371
		2	356	349	342	335	328
		3	279	272	265	258	251
		4	252	245	238	231	224
Western Hemlock ⁴	WH	1	349	342	335	328	321
		2	307	300	293	286	279
		3	243	236	229	222	215
		4	235	228	221	214	207
		5	159	152	145	138	131
		6	123	116	109	102	95
Other Conifer	OC	1	349	342	335	328	321
		2	307	300	293	286	279
		3	243	236	229	222	215
		4	235	228	221	214	207
		5	159	152	145	138	131
		6	123	116	109	102	95

TABLE 5—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Red Alder	RA	1	94	87	80	73	66
Black Cottonwood	BC	1	52	45	38	31	24
Other Hardwood	OH	1	70	63	56	49	42
Hardwood Utility	HU	5	23	23	23	23	23
Conifer Utility	CU	5	15	15	15	15	15

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 6—Stumpage Value Table
Stumpage Value Area 3
July 1 through December 31, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar-Shake Blocks & Boards ¹	RCS	1	\$409	\$402	\$395	\$388	\$381
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	158	151	144	137	130
Western Redcedar & Other Posts ²	RCP	1	0.54	0.54	0.54	0.54	0.54
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 7—Stumpage Value Table
Stumpage Value Area 4
July 1 through December 31, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$389	\$382	\$375	\$368	\$361
		2	322	315	308	301	294
		3	298	291	284	277	270
		4	222	215	208	201	194
		5	180	173	166	159	152
		6	132	125	118	111	104

TABLE 7—cont.

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar ³	RC	1	441	434	427	420	413
		2	318	311	304	297	290
		3	270	263	256	249	242
		4	242	235	228	221	214
Western Hemlock ⁴	WH	1	376	369	362	355	348
		2	279	272	265	258	251
		3	238	231	224	217	210
		4	231	224	217	210	203
		5	158	151	144	137	130
		6	141	134	127	120	113
Other Conifer	OC	1	376	369	362	355	348
		2	279	272	265	258	251
		3	238	231	224	217	210
		4	231	224	217	210	203
		5	158	151	144	137	130
		6	141	134	127	120	113
Red Alder	RA	1	73	66	59	52	45
Black Cottonwood	BC	1	52	45	38	31	24
Other Hardwood	OH	1	70	63	56	49	42
Hardwood Utility	HU	5	23	23	23	23	23
Conifer Utility	CU	5	6	6	6	6	6

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 8—Stumpage Value Table
Stumpage Value Area 4
July 1 through December 31, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$409	\$402	\$395	\$388	\$381
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	158	151	144	137	130
Western Redcedar & Other Posts ²	RCP	1	0.54	0.54	0.54	0.54	0.54
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 9—Stumpage Value Table
Stumpage Value Area 5
July 1 through December 31, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$490	\$483	\$476	\$469	\$462
		2	296	289	282	275	268
		3	290	283	276	269	262
		4	214	207	200	193	186
		5	174	167	160	153	146
		6	133	126	119	112	105
Western Redcedar ³	RC	1	514	507	500	493	486
		2	488	481	474	467	460
		3	384	377	370	363	356
		4	216	209	202	195	188
Western Hemlock ⁴	WH	1	410	403	396	389	382
		2	334	327	320	313	306
		3	211	204	197	190	183
		4	195	188	181	174	167
		5	143	136	129	122	115
		6	130	123	116	109	102
Other Conifer	OC	1	410	403	396	389	382
		2	334	327	320	313	306
		3	211	204	197	190	183
		4	195	188	181	174	167
		5	143	136	129	122	115
		6	130	123	116	109	102
Red Alder	RA	1	88	81	74	67	60
Black Cottonwood	BC	1	52	45	38	31	24
Other Hardwood	OH	1	70	63	56	49	42
Hardwood Utility	HU	5	23	23	23	23	23
Conifer Utility	CU	5	7	7	7	7	7

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 10—Stumpage Value Table
Stumpage Value Area 5
July 1 through December 31, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$409	\$402	\$395	\$388	\$381
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	158	151	144	137	130
Western Redcedar & Other Posts ²	RCP	1	0.54	0.54	0.54	0.54	0.54

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.

TABLE 10—cont.
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 11—Stumpage Value Table
Stumpage Value Area 6
July 1 through December 31, 1989

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$180	\$174	\$168	\$162	\$156
Engelmann Spruce	ES	1	79	73	67	61	55
Lodgepole Pine	LP	1	79	73	67	61	55
Ponderosa Pine	PP	1	311	305	299	293	287
		2	143	137	131	125	119
Western Redcedar ³	RC	1	169	163	157	151	145
True Firs ⁴	WH	1	135	129	123	117	111
Western White Pine	WP	1	169	163	157	151	145
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	12	12	12	12	12

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 12—Stumpage Value Table
Stumpage Value Area 6
July 1 through December 31, 1989

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.35	0.35	0.35	0.35	0.35

TABLE 12—cont.
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir & Other Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴ Stumpage value per lineal foot.

TABLE 13—Stumpage Value Table
Stumpage Value Area 7
July 1 through December 31, 1989

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$114	\$108	\$102	\$96	\$90
Engelmann Spruce	ES	1	87	81	75	69	63
Lodgepole Pine	LP	1	93	87	81	75	69
Ponderosa Pine	PP	1	178	172	166	160	154
		2	118	112	106	100	94
Western Redcedar ³	RC	1	164	158	152	146	140
True Firs ⁴	WH	1	90	84	78	72	66
Western White Pine	WP	1	202	196	190	184	178
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	11	11	11	11	11

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 14—Stumpage Value Table
Stumpage Value Area 7
July 1 through December 31, 1989

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.35	0.35	0.35	0.35	0.35

TABLE 14—cont.
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Pine Christmas Trees ¹	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir & Other Christmas Trees ²	DFX	1	0.25	0.25	0.25	0.25	0.25

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴Stumpage value per lineal foot.

TABLE 15—Stumpage Value Table
Stumpage Value Area 10
July 1 through December 31, 1989

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$289	\$283	\$277	\$271	\$265
		2	198	192	186	180	174
		3	129	123	117	111	105
Engelmann Spruce	ES	1	122	116	110	104	98
		2	117	111	105	99	93
		3	112	106	100	94	88
Lodgepole Pine	LP	1	117	111	105	99	93
		2	112	106	100	94	88
		3	106	100	94	88	82
Ponderosa Pine	PP	1	230	224	218	212	206
		2	212	206	200	194	188
		3	120	114	108	102	96
Western Redcedar ³	RC	1	269	263	257	251	245
		2	198	192	186	180	174
		3	127	121	115	109	103
True Firs ⁴	WH	1	326	320	314	308	302
		2	190	184	178	172	166
		3	151	145	139	133	127
Western White Pine	WP	1	224	218	212	206	200
		2	206	200	194	188	182
		3	128	122	116	110	104
Hardwoods	OH	1	61	55	49	43	37
Utility	CU	5	7	7	7	7	7

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska-Cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 16—Stumpage Value Table
Stumpage Value Area 10
July 1 through December 31, 1989

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴Stumpage value per lineal foot.

AMENDATORY SECTION (Amending Order FT-88-5, filed 12/30/88)

WAC 458-40-670 TIMBER EXCISE TAX—STUMPAGE VALUE ADJUSTMENTS. Harvest value adjustments relating to the various logging and harvest conditions shall be allowed against the stumpage values as set forth in WAC 458-40-660 for the designated stumpage value areas with the following limitations:

(1) No harvest adjustment shall be allowed against conifer utility, hardwood utility, or any of the special forest products.

(2) Stumpage value rates for conifer and hardwoods shall be adjusted to a value no lower than one dollar per MBF.

(3) Timber harvesters planning to remove timber from areas having damaged timber may apply to the department for adjustment in stumpage values. Such applications should contain a map with the legal descriptions of the area, a description of the damage sustained by the timber, and a list of estimated costs to be incurred. Such applications shall be sent to the department before the harvest commences. Upon receipt of such application, the department will determine the amount of adjustment allowed, and notify the harvester. Such amount may be taken as a credit against tax liabilities or, if harvest is terminated, a refund may be authorized. In the event the extent of such timber damage or additional costs are not known at the time the application is filed, the harvester may supplement the application not later than ninety days following completion of the harvest unit.

The following harvest adjustment tables are hereby adopted for use during the period of (~~January~~) July 1 through (~~June 30~~) December 31, 1989:

**TABLE 1—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, and 5
((January)) July 1 through
((June 30)) December 31, 1989**

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 40 thousand board feet per acre.	\$0.00
Class 2	Harvest of 20 thousand board feet to 40 thousand board feet per acre.	– \$4.00
Class 3	Harvest of 10 thousand board feet to but not including 20 thousand board feet per acre.	– \$7.00
Class 4	Harvest of 5 thousand board feet to but not including 10 thousand board feet per acre.	– \$9.00
Class 5	Harvest of less than 5 thousand board feet per acre.	– \$10.00
II. Logging conditions		
Class 1	Favorable logging conditions and easy road construction. No significant rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	\$0.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	((–\$15.00)) – \$18.00
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	((–\$31.00)) – \$35.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	((–\$78.00)) – \$92.00
III. Remote island adjustment:		
	For timber harvested from a remote island	– \$50.00
IV. Thinning (see WAC 458-40-610(20))		
Class 1	Average log volume of 50 board feet or more.	– \$25.00
Class 2	Average log volume of less than 50 board feet.	– \$35.00

**TABLE 2—Harvest Adjustment Table
Stumpage Value Areas 6, 7, and 10
((January)) July 1 through
((June 30)) December 31, 1989**

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 3 thousand board feet to 8 thousand board feet per acre.	– \$7.00

TABLE 2—cont.

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 3	Harvest of less than 3 thousand board feet per acre.	– \$10.00
II. Logging conditions		
Class 1	Favorable logging conditions and easy road construction. No significant rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	\$0.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	((–\$13.00)) – \$18.00
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	((–\$26.00)) – \$35.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	((–\$78.00)) – \$92.00
III. Remote island adjustment:		
	For timber harvested from a remote island	– \$50.00

Table 3—Domestic Market Adjustment

Harvest of timber not sold by a competitive bidding process which is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber which must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska yellow cedar. (Stat. Ref. – 36 CFR 223.10)

State Timber Sales: Western red cedar only. (Stat. Ref. – 50 USC appendix 2406.1)

The adjustment amounts shall be as follows:

- Class 1: All eligible species in Western Washington (SVA's 1 through 5) ~~((–\$34.00))~~ – \$28.00 per MBF
- Class 2: All eligible species in Eastern Washington (SVA's 6, 7, and 10) ~~((–\$19.00))~~ – \$17.00 per MBF

Note: The adjustment will not be allowed on conifer utility, hardwood utility or special forest products.

WSR 89-14-052

ADOPTED RULES

TRANSPORTATION COMMISSION

[Order 67, Resolution No. 354—Filed June 30, 1989]

Be it resolved by the Washington State Transportation Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to changing bicycle tariff, and clarification of other categories such as truck definition and vanpools.

This action is taken pursuant to Notice No. WSR 89-12-005 filed with the code reviser on May 25, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 47.56.030 and 47.60.326 which directs that the Department of Transportation has authority to implement the provisions of RCW 47.56.030 and 47.60.326.

APPROVED AND ADOPTED June 15, 1989.
By William J. Kamps
Chairman

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.

AMENDATORY SECTION (Amending Order 66, Resolution No. 343, filed 1/23/89, effective 7/1/89)

WAC 468-300-010 FERRY PASSENGER TOLLS.

Effective 03:00 a.m. (~~July 1~~) September 11, 1989

ROUTES	Full Fare	Half Fare**	COM-MU-TATION 20 Rides (AAA) ****	<u>Bicycle Surcharge</u> *****
Via Passenger-Only Ferry				
Seattle-Vashon Seattle-Southworth Seattle-Bremerton	3.30	1.65	19.80	<u>N/C</u>
Via Auto Ferry				
Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Edmonds-Kingston	3.30	1.65	19.80	<u>.50</u>
Pt. Townsend-Keystone	1.65	.85	19.80	<u>.25</u>
Fauntleroy-Vashon Southworth-Vashon Pt. Defiance-Tahlequah Mukilteo-Clinton	2.15	1.10	12.90	<u>.50</u>
Anacortes to Lopez, Shaw, Orcas or Friday Harbor	* 4.65	2.35	27.90	<u>1.00</u>
Anacortes to Sidney and Sidney to all destinations	6.05	3.05	N/A	<u>2.50</u>
Between Lopez, Shaw, Orcas***** and Friday Harbor	N/C	N/C	N/C	<u>2.25</u>
From Lopez, Shaw, Orcas and Friday Harbor@ to Sidney	2.25	1.25	N/A	<u>1.00</u>

@These fares rounded to the nearest multiple of \$.25.

*These routes operate as a one-point toll collection system.

**Half Fare

Children - Children under five years of age will be carried free when accompanied by parent or guardian. Children five through eleven years of age will be charged half-fare. Children twelve years of age will be charged full-fare.

Senior Citizens - Passengers and driver, age 65 and over, with proper identification establishing proof of age, may travel at half-fare tolls on any route.

((Includes passengers in vehicles licensed as stages and buses unless travelling under annual permit.

NOTE: ~~Half-fare privilege does not include vehicle.~~

~~Children - Children under five years of age will be carried free when accompanied by parent or guardian. Children five through eleven years of age will be charged half-fare. Children twelve years of age will be charged full-fare.)~~

~~Handicapped - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, may travel at half-fare tolls on any route upon presentation of a WSF Handicapped Travel Permit or Regional Reduced Fare Permit at time of travel. In addition, those handicapped persons who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Handicapped Travel Permit and such endorsement shall allow the attendant to also travel at half fare.~~

~~Bus Passengers - Passengers traveling in vehicles licensed as stages and buses, unless traveling under an annual permit, will be charged half-fare.~~

~~Medicare Card Holders - Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare tolls on any route upon presentation of a WSF Handicapped Travel Permit or a Regional Reduced Fare Permit at time of travel.~~

NOTE: Half-fare privilege does not include vehicle.

~~((***A combination ferry/bus public transit passenger monthly reusable ticket rate may be available for a particular route in conjunction with a public transit operating authority whenever it is determined by the transportation commission that said ticket is a necessary element of a transit operating plan designed to eliminate the necessity for assigning an additional ferry to such particular route, and that the resulting savings in ferry system operating and amortized capital costs exceed the total revenue lost as a result of this reduced rate as projected during the period of time during which such transit operating plan is projected to eliminate the need for an additional ferry. The equivalent ferry fare per ride with this special rate shall be one-half the equivalent fare per ride with the standard commutation book, and shall assume 40 one-way trips per month. The total cost of the ticket shall be the cost of the ferry portion, calculated as described above plus the cost of the bus portion as determined by the public transit operating authority, subject to the approval of the secretary of transportation. The ticket shall be valid only for passengers on board a bus, or for walk-on passengers on those routes which have connecting bus service as part of the transit operating plan. The assigning of an additional ferry to such particular route may be cause for removal of the special rate. If the conditions of eliminating the assignment of an additional ferry or realizing sufficient resulting savings cannot be met, the ticket may be sold for any route authorized by the secretary of transportation, at the full ferry commutation fare per ride based on forty one-way trips per month plus the cost of the bus portion.))~~

~~****Commutation tickets shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage. Washington state ferries shall enter into agreements with banks to sell commutation tickets.~~

~~*****Inter-island passenger fares included in Anacortes tolls.~~

~~*****Bicycle surcharge is in addition to the appropriate passenger fare.~~

PROMOTIONAL TOLLS

A promotional rate may be established at the discretion of the secretary of transportation for a specific discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

AMENDATORY SECTION (Amending Order 66, Resolution No. 343, filed 1/23/89, effective 7/1/89)

WAC 468-300-020 AUTO, MOTORCYCLE, ((BICYCLE)) AND STOWAGE FERRY TOLLS.

Effective 03:00 a.m. ((July 1)) September 11, 1989

	AUTO** INCL. DRIVER		MOTORCYCLE INCL. DRIVER		((BICYCLE & RIDER		
	One Way	Commutation 20 Rides ***	One Way	Commutation 20 Rides ***	Full Fare	Half Fare	Commutation
					One Way	One Way	20 Rides ***
Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Pt. Townsend-Keystone Edmonds-Kingston	5.55	88.80	3.05	40.65	2.30	1.50	23.00
Fauntleroy-Vashon Southworth-Vashon Pt. Defiance-Tahlequah	* 7.50	60.00	4.10	27.35	3.20	2.15	16.00
Mukilteo-Clinton	3.75	60.00 10 Rides	2.05	27.35	1.60	1.10	16.00
Anacortes to Lopez, Shaw, Orcas or Friday Harbor	11.60 * 13.85 15.85	46.40 55.40 63.40	7.15 8.20 9.50	47.65 54.65 63.35	6.25	3.95	31.25
Anacortes to Sidney and Sidney to all destinations	26.05	N/A	13.15	N/A	8.55	5.55	N/A

Effective 03:00 a.m. (~~July 1~~) September 11, 1989

	AUTO** INCL. DRIVER		MOTORCYCLE INCL. DRIVER *****		((BICYCLE & RIDER		
	One Way	Commutation 20 Rides ***	One Way	Commutation 20 Rides ***	Full Fare One Way	Half Fare One Way	Commutation 20 Rides ***
Between Lopez, Shaw, Orcas and Friday Harbor ***** @	6.50	26.00	2.25	N/A	2.25	2.25	N/A
From Lopez, Shaw, Orcas@ and Friday Harbor to Sidney	13.25	N/A	6.00	N/A	3.25	2.25	N/A

@These fares rounded to the nearest multiple of \$.25.

*These routes operate as a one-point toll collection system.

**Vanpools - A commuter vanpool which carries seven or more persons on a regular and expense-sharing basis for the purpose of travel to or from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$10 fee, a permit valid for a three-month period (~~on Mondays through Fridays only and~~) valid only during the hours shown on the permit. The permit for commuter pool agency vanpools shall be valid for one year. By July 1, 1990, all vanpools will be required to have tax exempt or vanpool specialized licenses. The fee for private vanpool permits will be reduced from ten dollars per quarter to ten dollars per year to coincide with the fee charged to public vanpools, effective July 1, 1990. These hours are selectable by the purchaser but shall designate two periods of use each day not to exceed two hours per period. The permit so purchased shall allow passage of the vehicle only during the valid periods. All riders in the van, including the driver, shall pay the applicable passenger fare. Except that the minimum total paid for all riders in the van shall not be less than the amount equal to (~~seven~~) four times the applicable passenger fare.

***Commutation tickets shall be valid only for 90-days from date of purchase after which time the ticket shall not be accepted for passage. Washington state ferries shall enter into agreements with banks to sell commutation tickets.

****Tolls collected westbound only.

***** Carry on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

SUMMER SURCHARGE

A 20% surcharge shall be applied to coincide with the summer schedule period to regular, noncommutation auto and noncommercial vehicles with trailers and oversize vehicles.

PENALTY CHARGES

Owner of vehicle without driver will be assessed a \$50.00 penalty charge.

Overhang on passenger vehicles will be assessed a penalty charge of 10¢ per lineal foot of overhang in addition to regular applicable tolls, except that no charge for overhang will be assessed when overall length of vehicle and overhang is less than twenty feet. A fraction of a foot of overhang in excess of six inches will be counted as one foot in assessment of charge for overhang.

SPECIAL SCHOOL RATE

School groups when traveling in authorized school vehicles for institution-sponsored activities shall be assessed a flat fee of \$1.00 per vehicles load of students and/or advisors and staff. The flat fee shall be in addition to regular vehicle and drive toll. Private vehicles need letter of authorization.

NOTE: Special school rate is \$2.00 on routes where one-way only toll systems are in effect. Special student Rate not available on Anacortes-Sidney, B.C. route beginning the third Sunday in June and ending the third Saturday in September due to limited space.

PROMOTIONAL TOLLS

A promotional rate may be established at the discretion of the secretary of transportation for a specified discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

AMENDATORY SECTION (Amending Order 66, Resolution No. 343, filed 1/23/89, effective 7/1/89)

WAC 468-300-040 TRUCKS AND TRUCKS WITH TRAILER FERRY TOLLS.

Effective 03:00 a.m. ((July 1)) September 11, 1989

ROUTES	INCL. DRIVER								Cost Per Ft. over 78 Ft.
	Class I *** Under 18'	OVERALL Class II 18' to Under 28'	UNIT Class III 28' to Under 38'	LENGTH Class IV 38' to Under 48'	Class V 48' to Under 58'	Class VI 58' to Under 68'	Class VII 68' to Under 78'	Class VIII Over 78'	
Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Pt. Townsend-Keystone Edmonds-Kingston	5.55	9.40	18.65	27.85	37.10	46.35	55.50	55.50	.80
Fauntleroy-Vashon Southworth-Vashon Pt. Defiance-Tahlequah	* 7.50	13.20	26.20	39.00	51.90	64.90	77.90	77.90	1.10
Mukilteo-Clinton	3.75	6.60	13.10	19.50	25.95	32.45	38.95	38.95	.55
**Anacortes to Lopez, Shaw, Orcas * or Friday Harbor	11.60 13.85 15.85	22.45	44.65	66.80	88.95	111.20	133.35	133.35	1.85
Anacortes to Sidney **and Sidney to all destinations	26.05	34.20	57.70	81.20	104.75	128.40	151.95	151.95	2.10
Between Lopez, Shaw, Orcas **@ and Friday Harbor	6.50	11.00	11.00	11.00	44.00	44.00	44.00	44.00	N/A
**From Lopez, Shaw, Orcas and Friday Harbor to Sidney@	13.25	20.00	34.00	48.00	61.50	75.50	89.25	89.25	1.00

@These fares rounded to the nearest multiple of \$.25.

*These routes operate as a one-point toll collection system.

**Commercial trucks are allowed stop-over at intermediate points upon payment of \$2.50 per stop-over.

***Includes all trucks licensed 8,001 lbs. gross vehicle weight and above, except busses. Trucks under 8,001 lbs. will be classified as automobiles.

Also includes all trucks licensed 8,001 lbs. gross vehicle weight and above pulling trailers, vehicles licensed as fixed load, unlicensed vehicles and road machinery on wheels. Vehicles not included in this class cannot be charged under this class.

****Toll collected westbound only.

PENALTY CHARGES

Owner of vehicle without driver will be assessed a \$50.00 penalty charge.

DISCOUNT PERCENTAGES FROM REGULAR TOLL

12 or more, one-way crossings per week (Sunday thru Saturday) will qualify for a 25% discount from the regular ferry tolls.

Emergency trips during nonservice hours - while at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

AMENDATORY SECTION (Amending Order 66, Resolution No. 343, filed 1/23/89, effective 7/1/89)

WAC 468-300-070 NONCOMMERCIAL VEHICLE WITH TRAILER, OVERSIZE VEHICLE, STAGE AND BUS, NEWSPAPER, EXPRESS SHIPMENTS AND MEDICAL SUPPLIES FERRY TOLLS.

Effective 03:00 a.m. (~~July 1~~) September 11, 1989

Noncommercial Vehicle with Trailer, Oversize Vehicle,
Stage and Bus, Newspaper, Express Shipments and
Medical Supplies Ferry Tolls***

	((Under 18'	18' To Under 28'	28' To Under 38'	38' To Under 48'	48' And Over	Stages And Buses Incl. Driver **
Seattle-Winslow Seattle-Bremerton Edmonds-Kingston Pt. Townsend-Keystone Fautleroy-Southworth	5.55	8.35	11.25	15.90	20.50	12.25
Fautleroy-Vashon Southworth-Vashon Pt. Defiance-Tahlequah	* 7.50	11.40	15.80	22.20	28.80	15.70
Mukilteo-Clinton	3.75	5.70	7.90	11.10	14.40	7.85
Anacortes to Lopez, Shaw, Orcas * or Friday Harbor	11.60 13.85 15.85	20.45	27.05	38.10	49.20	33.30
Anacortes to Sidney and Sidney to all destinations	26.05	33.10	38.85	50.60	62.35	48.50
Between Lopez, Shaw, Orcas ****@ and Friday Harbor	6.50	11.00	11.00	11.00	44.00	11.00
From Lopez, Shaw, Orcas and Friday Harbor to Sidney@	13.25)	18.25	22.50	29.50	36.50	15.50

(1) BULK NEWSPAPERS per 100 lbs. \$2.20

(Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.10 per 100 lbs.)
Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

(2) EXPRESS SHIPMENTS per 100 lbs. \$20.90

(Shipments exceeding 100 lbs. assessed \$8.30 for each 25 lbs. or fraction thereof.)
Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight requiring a minimum of handling by carrier's employees. Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan inter-island express shipments will be handled @ \$2.80 per 100 lbs.

(3) MEDICAL SUPPLIES per 100 lbs. \$1.15

@These fares rounded to the nearest multiple of \$.25.

*These routes operate as a one-point toll collection system.

**Stages - A public transportation operator providing regularly scheduled week-day service for public necessity and convenience may pay a \$10 annual fee for each scheduled vehicle. This fee covers the fare for each trip of the vehicle and operator only. All occupants shall be assessed the applicable passenger rate per trip. The \$10 annual fee does not apply to vehicles providing chartered service or vehicles providing service for special events such as trips for recreational purposes.

PENALTY CHARGES

Owner of vehicle without driver will be assessed a \$50.00 penalty charge.

*****INCLUDES THE FOLLOWING VEHICLES PULLING TRAILERS:**

- Automobiles
- Trucks licensed under 8,001 lbs. (For trucks 8,001 lbs. and over, see WAC 468-300-040)
- Oversize vehicles
- Does not include motorcycles with trailers.

Also includes motor homes, and mobile campers that exceed (~~eight feet in height and~~) 18' in length. Excludes trucks licensed over 8,000 lbs., passenger busses and stages.

ALL OVERSIZE VEHICLES UNDER 18' IN LENGTH WILL BE CONSIDERED AS REGULAR CAR AND DRIVER.

****Toll collected westbound only.

Senior citizen discounts for the driver of the above vehicles shall apply.

Senior citizen discount is determined by subtracting full fare passenger rate and adding 1/2 passenger fare.

SUMMER SURCHARGE

A 20% surcharge shall be applied to coincide with this summer schedule period to regular, noncommutation auto and noncommercial vehicles with trailers and oversize vehicles.

WSR 89-14-053
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed June 30, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning definitions, amending WAC 388-49-020;

that the agency will at 10:00 a.m., Tuesday, August 8, 1989, in the OB-2 Auditorium, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 9, 1989.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is chapter 74.04 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1989.

Correspondence concerning this notice and proposed rules shown below should be addressed to:

Troyce Warner
 Office of Issuances
 Department of Social and Health Services
 Mailstop OB-33H
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 25, 1989. The meeting site is in a location which is barrier free.

Dated: June 28, 1989

By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-49-020.

Purpose of the Rule change: To conform with federal regulation language, 7 CFR 271.2, and to clarify that people receiving disability related medical assistance under Title XIX of the Social Security Act are to be considered "disabled" for food stamp program purposes; and modify the definitions of "administrative law judge" and "fair hearing" to conform with terminology used in the Administrative Procedure Act of 1989. Subsection

(18)(h) has been added. Subsections (3) and (26) have been modified.

Statutory Authority: RCW 74.04.510.

Summary of Rule Change: Clarifies that "disabled persons" include people who receive disability related medical assistance under Title XIX of the Social Security Act; and modifies the definitions of "administrative law judge" and "fair hearing" to conform with terminology used in the Administrative Procedure Act of 1989.

Person Responsible for Rule Drafting and Implementation: Joan Wirth, 234-5401 scan, Community Services Program Manager, Division of Income Assistance, OB-31C.

This rule change is necessary to conform with federal regulations, 7 CFR 271.2, and the Administrative Procedure Act of 1989.

AMENDATORY SECTION (Amending Order 2770, filed 3/2/89)

WAC 388-49-020 DEFINITIONS. (1) "Administrative disqualification hearing" means a formal hearing to determine whether or not an individual committed an intentional program violation.

(2) "Administrative error overissuance" means any overissuance caused solely by department action or failure to act when the household properly and accurately reported all the household's circumstances to the department.

(3) "Administrative law judge" means an employee of the office of administrative hearings empowered to (~~conduct contested case hearings~~) preside over adjudicative proceedings.

(4) "Aid to families with dependent children (AFDC) program" means the federally funded public assistance program for dependent children and their families authorized under Title IV-A of the Social Security Act.

(5) "Allotment" means the total value of coupons a household is certified to receive during a calendar month.

(6) "Application process" means the filing and completion of an application form, interview or interviews, and verification of certain information.

(7) "Authorized representative" means an adult nonhousehold member sufficiently aware of household circumstances designated in writing by the head of the household, spouse, or other responsible household member to act on behalf of the household.

(8) "Beginning months" means the first month the household is eligible for benefits, and the month thereafter. The first beginning month cannot follow a month in which a household was certified eligible to receive benefits.

(9) "Benefit level" means the total value of food stamps a household is entitled to receive based on household income and circumstances.

(10) "Boarder" means an individual residing with the household, except a person described under WAC 388-49-190 (2)(a), (b), (c), or (d), who is:

(a) A person paying reasonable compensation to the household for lodging and meals; or

(b) A foster child.

(11) "Budget month" means the first month of the monthly reporting cycle; the month for which the household reports their circumstances.

(12) "Certification period" means definite period of time within which the household has been determined eligible to receive food stamps.

(13) "Child" means someone under eighteen years of age and under parental control.

(14) "Collateral contact" means contact with someone outside of the household to confirm the household's circumstances.

(15) "Commercial boarding home" means an enterprise offering meals and lodging for compensation with the intent of making a profit.

(16) "Dependent care deduction" means costs incurred by a household member for care provided by a nonhousehold member when the care is necessary for a household member to seek, accept, or continue employment, or attend training or education preparatory to employment.

(17) "Destitute household" means a household with migrant or seasonal workers with little or no income at the time of application in need of immediate food assistance.

(18) "Disabled person" means a person who meets one of the following criteria:

(a) Receives Supplemental Security Income (SSI) under Title XVI of the Social Security Act;

(b) Receives disability or blindness payments under Titles I, II, XIV, or XVI of the Social Security Act;

(c) Is a veteran with service-connected or nonservice-connected disability rated or paid as total under Title 38 of the United States Code (USC), or considered in need of regular aid and attendance, or permanently housebound under such title;

(d) Is a surviving spouse of a veteran and considered in need of aid and attendance, or permanently housebound; or a surviving child of a veteran and considered to be permanently incapable of self-support under Title 38 of the USC;

(e) A surviving spouse or child of a veteran and entitled to compensation for service-connected death or pension benefits for a nonservice-connected death under Title 38 of the USC and has a disability considered permanent under section 221(i) of the Social Security Act;

(f) Receives disability retirement benefits from a federal, state, or local government agency, because of a disability considered permanent under section 221(i) of the Social Security Act; ((σ))

(g) Receives an annuity payment as part of the Railroad Retirement Act of 1974 under:

(i) Section 2 (a)(1)(iv) and is determined eligible to receive Medicare by the Railroad Retirement Board; or

(ii) Section 2 (a)(1)(v) and is determined disabled based on the criteria under Title XVI of the Social Security Act; or

(h) Is a recipient of disability-related medical assistance under Title XIX of the Social Security Act.

(19) "Documentary evidence" means written confirmation of a household's circumstances.

(20) "Documentation" means the process of recording the source, date, and content of verifying information.

(21) "Elderly person" means a person sixty years of age or older.

(22) "Eligible food" means, for a homeless food stamp household, meals prepared for and served by an authorized homeless meal provider.

(23) "Entitlement" means the food stamp benefit a household received including a disqualified household member.

(24) "Equity value" means fair market value less encumbrances.

(25) "Expedited services" means quick provision of food stamps within five calendar days to an eligible household which:

(a) Has liquid resources of one hundred dollars or less; and

(b) Has gross monthly income under one hundred fifty dollars; or

(c) Has combined gross income and liquid resources which are less than the household's current monthly rent or mortgage and actual utility costs; or

(d) Includes all members who are homeless individuals; or

(e) Includes destitute migrant or seasonal farm workers.

(26) "Fair hearing" means ~~(a hearing conducted by the office of administrative hearings at the client's request to decide whether action taken or intended action by the department is correct)~~ an adjudicative proceeding in which the department hears and decides an applicant/recipient's appeal from the department's action or decision.

(27) "Fair market value" means the value at which a prudent person might sell the property if the person was not forced to sell.

(28) "Food coupon" means food stamps and the two terms are interchangeable.

(29) "Food coupon authorization (FCA) card" means the document issued by the local or state office to authorize the allotment the household is eligible to receive.

(30) "Food stamp monthly reporting cycle" means the budget month, the process month, and the payment month.

(31) "Gross income eligibility standards" means one hundred thirty percent of the federal poverty level for the forty-eight contiguous states.

(32) "Group living arrangement" means a public or private non-profit residential setting serving no more than sixteen residents certified by the appropriate state agency under section 1616(e) of the Social Security Act.

(33) "Head of household" means:

(a) The person designated by the household to be named on the case file, identification card, and FCA card;

(b) For employment services or the voluntary quit provision, the household member who is the principal wage earner with the greatest source of earned income in the two months prior to the month of violation, including members not required to register, provided:

(i) The employment involves at least twenty hours per week; and

(ii) The person is not living with a parent or a person fulfilling that role who is:

(A) Registered for work,

(B) Exempt from work registration because of registration in a Title IV-A or IV-C work program of the Social Security Act, as amended, or the receipt of unemployment compensation, or

(C) Employed or self-employed and working a minimum of thirty hours per week, or receiving weekly earnings equal to the federal minimum wage multiplied by thirty hours.

(34) "Home visit" means a personal contact at the person's residence by a department employee. The home visit shall be scheduled in advance with the household.

(35) "Homeless food stamp household" means an eligible food stamp household having no fixed mailing address or not residing in a permanent dwelling.

(36) "Homeless meal provider" means a public or private nonprofit establishment (e.g., soup kitchen, temporary shelter, mission, or other charitable organizations) feeding homeless persons, approved by division of income assistance (DIA) and authorized by FNS.

(37) "Household" means the basic client unit in the food stamp program.

(38) "Household disaster" means when food purchased with food stamps are destroyed by a natural disaster, such as flood, fire, etc.

(39) "Identification card" means the document identifying the bearer as eligible to receive and use food stamps.

(40) "Inadvertent household error overissuance" means any overissuance caused by misunderstanding or unintended error on the part of the household.

(41) "Ineligible household member" means the member excluded from the food stamp household because of:

(a) Disqualification for intentional program violation;

(b) Failure to apply for or provide a Social Security number;

(c) Failure to comply with work registration requirements;

(d) Status as an ineligible alien;

(e) Status as an ineligible student; or

(f) Failure to sign the application attesting to the member's citizen-ship or alien status.

(42) "Institution" means any place of residence (private or public) providing maintenance and meals for two or more persons.

(43) "Institution of higher education" means any institution normally requiring a high school diploma or equivalency certificate for enrollment. This includes any two-year or four-year college. Also included is any course in a trade or vocational school that normally requires a high school diploma or equivalency for admittance to the course.

(44) "Intentional program violation," after August 8, 1983, means intentionally:

(a) Making a false or misleading statement;

(b) Misrepresenting, concealing, or withholding facts; or

(c) Committing any act constituting a violation of the Food Stamp Act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or FCAs.

Intentional program violation which ended prior to August 8, 1983, consists of any action by an individual or individuals to knowingly, willfully, and with deceitful intent:

(a) Make a false statement to the department, either orally or in writing, to obtain benefits to which the household is not entitled;

(b) Conceal information to obtain benefits to which the household is not entitled;

(c) Alter authorization cards or coupons to obtain benefits to which the household is not entitled;

(d) Use coupons to buy expensive or conspicuous nonfood items;
 (e) Use or possess improperly obtained coupons or authorization cards; and

(f) Trade or sell coupons or authorization cards.

(45) "Intentional program violation overissuance" means any overissuance caused by an intentional program violation.

(46) "Live-in attendant" means an individual residing with a household to provide medical, housekeeping, child care, or other similar personal services.

(47) "Lump sum" means money received in the form of a nonrecurring payment including, but not limited to:

- (a) Income tax refunds,
- (b) Rebates,
- (c) Retroactive payments, and
- (d) Insurance settlements.

(48) "Mandatory fees" means those fees charged to all students within a certain curriculum. Transportation, supplies, and textbook expenses are not uniformly charged to all students and are not considered as mandatory fees.

(49) "Migrant farmworker" means an individual working in seasonal agricultural employment and who is required to be absent overnight from his or her permanent place of residence.

(50) "Net income eligibility standard" means the federal income poverty level for the forty-eight contiguous states.

(51) "Nonhousehold member" means a person who is not considered a member of the food stamp household such as:

- (a) A roomer;
- (b) A live-in attendant; or
- (c) An individual who does not purchase and prepare meals with the food stamp household.

(52) "Nonstriker" means any person:

(a) Exempt from work registration the day prior to the strike for reasons other than their employment;

(b) Unable to work as a result of other striking employees, e.g., truck driver not working because striking newspaper pressmen not printing output;

(c) Not part of the bargaining unit on strike but not wanting to cross picket line due to fear of personal injury or death; or

(d) Unable to work because workplace is closed by employer in order to resist demands of employees, e.g., a lockout.

(53) "Offset" means reduce restored benefits by any overissuance (claim) owed by the household to the department.

(54) "Overissuance" means the amount of coupons issued to a household in excess of the amount eligible to receive.

(55) "Overpayment" means the same as "overissuance" and shall be the preferred term used in procedures.

(56) "Payment month" means the third month of the budget cycle; the month in which the food stamp allotment is affected by information reported on the monthly report for the budget month.

(57) "Period of intended use" means the period for which an FCA or food coupon is intended to be used.

(58) "Post secondary education" means a school not requiring a high school diploma or equivalency for enrollment. This includes trade school, vocational schools, business colleges, beauty schools, barber schools, etc.

(59) "Process month" means the second month of the monthly reporting cycle; the month in which the monthly report is to be returned by the household to the local office.

(60) "Project area" means the county or similar political subdivision designated by the state as the administrative unit for program operations.

(61) "Prospective budgeting" means the computation of a household's income based on income received or anticipated income the household and department are reasonably certain will be received during the month of issuance.

(62) "Prospective eligibility" means the determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

(63) "Quality control review" means a review of a statistically valid sample of cases to determine the accuracy of budgeting, issuance, denial, withdrawal, and termination actions taken by the department.

(64) "Quality control review period" means the twelve-month period from October 1 of each calendar year through September 30 of the following calendar year.

(65) "Recent work history" means receipt of earned income in one of the two months prior to the payment month.

(66) "Recertification" means approval of continuing benefits based on an application submitted prior to the end of the current certification period.

(67) "Resident of an institution" means a person who resides in an institution that provides the individual with the majority of meals as part of the institution's normal service.

(68) "Retrospective budgeting" means the computation of a household's income for a payment month based on actual income received in the corresponding budget month of the monthly reporting cycle.

(69) "Retrospective eligibility" means the determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.

(70) "Roomer" means an individual to whom a household furnishes lodging, but not meals, for compensation.

(71) "Seasonal farmworker" means an individual working in seasonal agricultural employment who is not required to be absent from his or her permanent place of residence overnight.

(72) "Shelter costs" means:

(a) Rent or mortgage payments plus taxes on a dwelling and property;

(b) Insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated;

(c) Assessments;

(d) Utility costs such as heat and cooking fuel, cooling and electricity, water, garbage, and sewage disposal;

(e) Standard basic telephone allowance;

(f) Initial installation fees for utility services; and

(g) Continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home including interest on such payments.

(73) "Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children.

(74) "Sibling" means a natural, adopted, half brother or stepbrother or natural, adopted, half sister or stepsister.

(75) "Sponsor" means a person who executed an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's admission into the United States as a permanent resident.

(76) "Sponsored alien" means an alien lawfully admitted for permanent residence.

(77) "Spouse" means:

(a) Married under applicable state law; or

(b) Living with another person and holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

(78) "Striker" means any person:

(a) Involved in a strike or concerted stoppage of work by employees including stoppage due to expiration of a collective bargaining agreement; or

(b) Involved in any concerted slowdown or other concerted interruption of operations by employees.

(79) "Student" means any person:

(a) Between eighteen and sixty years of age,

(b) Physically and mentally fit for employment, and

(c) Enrolled at least half time in an institution of higher education.

(80) "Systematic alien verification for entitlements (SAVE)" means the immigration and naturalization service (INS) program whereby the department may verify the validity of documents provided by aliens applying for food stamp benefits by obtaining information from a central data file.

(81) "Thrifty food plan" means the diet required to feed a family of four as determined by the United States Department of Agriculture. The cost of the diet is the basis for all allotments, taking into account the household size adjustments based on a scale.

(82) "Under parental control" means living with the parent or any adult other than the parent. A person is not under parental control when that person is:

(a) Receiving an aid to families with dependent children (AFDC) grant as his or her own payee;

(b) Receiving gross income equal to, or exceeding, the AFDC grant payment standard; or

(c) Married.

(83) "Vehicle" means any device for carrying or conveying persons and objects, including travel by land, water, or air.

(84) "Vendor payment" means money payments not owed or payable directly to a household, but paid to a third party for a household expense, such as:

(a) A payment made in money on behalf of a household whenever another person or organization makes a direct payment to either the household's creditors or a person or organization providing a service to the household; or

(b) Rent or mortgage payments, made to landlords or mortgagees by the department of housing and urban development or by state or local housing authorities.

(85) "Verification" means the use of documentation or third-party information to establish the accuracy of statements on the application. Sources of verification shall be documentary evidence, collateral contacts, or a home visit.

WSR 89-14-054
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 30, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning public assistance households, amending WAC 388-49-070;

that the agency will at 10:00 a.m., Tuesday, August 8, 1989, in the OB-2 Auditorium, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 9, 1989.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is chapter 74.04 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1989.

Correspondence concerning this notice and proposed rules shown below should be addressed to:

Troyce Warner
Office of Issuances
Department of Social and Health Services
Mailstop OB-33H
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 25, 1989. The meeting site is in a location which is barrier free.

Dated: June 28, 1989
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.
Re: Amending WAC 388-49-070.

Purpose of the Rule Change: To file rules preventing the department from unnecessarily requiring certain households to file second applications for food stamps in specific situations.

The change is necessary to implement a portion of the Hunger Prevention Act of 1988 which is effective July 1, 1989.

Statutory Authority: RCW 74.04.510.

Summary of the Rule Change: This change prevents the department from requiring a household to file a new application for food stamps if they are denied or terminated from public assistance provided the information on the public assistance application is sufficient for food stamp program purposes.

Person Responsible for Drafting and Implementation of the Rule: Mick Determan, Community Services Program Manager, Division of Income Assistance, OB-31C, 234-4005 scan.

This rule is necessary as a result of federal law, Section 352 of Public Law 100-435.

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-070 PUBLIC ASSISTANCE HOUSEHOLDS. ~~((+))~~ When a household files an application requesting public assistance and food stamps, the department shall:

- (1) Conduct a single interview at initial application ~~((for public assistance and food stamps.))~~;
- (2) ~~((The department shall))~~ Not delay ~~((the household's))~~ food stamp benefits pending ~~((verification))~~ determination of ~~((the))~~ public assistance eligibility; and
- (3) Not require a new food stamp application filing if the department:
 - (a) Denies the public assistance request; or
 - (b) Terminates public assistance eligibility during a certification period.

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

WSR 89-14-055
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 30, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning:

- Amd WAC 388-49-410 Resources—Exempt.
- Amd WAC 388-49-430 Resources—Vehicles;

that the agency will at 10:00 a.m., Tuesday, August 8, 1989, in the OB-2 Auditorium, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 9, 1989.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is chapter 74.04 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1989.

Correspondence concerning this notice and proposed rules shown below should be addressed to:

Troyce Warner
Office of Issuances
Department of Social and Health Services
Mailstop OB-33H
Olympia, WA 98504

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Dated: June 25, 1989
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-49-410 and 388-49-430.

Purpose of the Rule change: To amend the food stamp program requirements regarding the treatment of resources essential to a self-employed farmer.

Reason this Rule is Necessary: To implement Public Law 100-435 which is effective July 1, 1989. It is being filed for emergency adoption because it is client beneficial.

Statutory Authority: RCW 74.04.510.

Summary of Rule Change: Property and vehicles, excluded as resources because they are essential to the self-employment of a farmer, retain their exclusion for one year from the date the person terminates self-employment from farming; and a technical correction is made to WAC 388-49-430(6).

Person Responsible for Drafting and Implementation of the Rule: Randall Francom, Community Services Program Manager, Division of Income Assistance, mailstop OB-31C, 234-4918 scan.

This rule is necessary as a result of Public Law 100-435 and food and nutrition service interim rules in 7 CFR 273.8.

AMENDATORY SECTION (Amending Order 2662, filed 8/2/88)

WAC 388-49-410 RESOURCES—EXEMPT. (1) The department shall exempt the following resources:

(a) An occupied home and surrounding property not separated by intervening property owned by others;

(b) An unoccupied home and surrounding property if:

(i) The household intends to return to the home; and

(ii) The house is unoccupied due to:

(A) Employment;

(B) Training for future employment;

(C) Illness; or

(D) Uninhabitability due to casualty or natural disaster.

(c) A piece of land where the household is building or intends to build a permanent home, if the household does not own another home. The land must not be separated by intervening property owned by others;

(d) Personal effects;

(e) Household goods;

(f) One burial plot per household member;

(g) Cash value of:

(i) Life insurance policies; and

(ii) Pension funds.

(h) Vehicles as provided under WAC 388-49-430;

(i) That portion of real or personal property directly related to the maintenance or use of a vehicle excluded under WAC 388-49-430 (1)(a), (b), and (f);

(j) Property annually producing income consistent with its fair market value, even if only used on a seasonal basis;

(k) Rental homes used by household for vacation purposes during the year if the property annually produces income consistent with its fair market value;

(l) Property essential to the employment or self-employment of a household member. Property excluded under this provision because the property is used by a self-employed farmer shall retain its exclusion for one year from the date the household member terminates self-employment from farming;

(m) Resources held separately by nonhousehold members, a person disqualified for noncompliance with work registration requirements, or an ineligible student;

(n) Indian lands:

(i) Held jointly with the tribe; or

(ii) Sold only with the approval of the Bureau of Indian Affairs.

(o) Resources prorated as income for self-employed persons or eligible students. These funds, if commingled in an account with nonexcluded funds, shall retain their exclusion for the period of time they are prorated as income;

(p) Cash value of resources not accessible to the household;

(q) Funds in a trust and the income produced by that trust, to the extent they are not available;

(r) Resources excluded by express provision of federal law from consideration in the food stamp program;

(s) Installment contracts or agreements for the sale of land or other property when it is producing income consistent with its fair market value;

(t) Value of the property sold under an installment contract;

(u) The value of property held for security if the purchase price is consistent with fair market value;

(v) Real or personal property when:

(i) Secured by a lien as a result of obtaining a business loan; and

(ii) The security or lien agreement prohibits the household from selling the asset or assets.

(w) Governmental payments designated for restoration of a home damaged in a disaster. The household must be subject to legal sanction if the funds are not used as intended;

(x) Energy assistance payments or allowances made under federal, state, or local laws; and

(y) Resources of persons residing in shelters for battered women and children if:

(i) The resources are jointly owned with members of the former household; and

(ii) Access to the resources depends on the agreement of the joint owner.

(2) Exempt funds commingled in an account with nonexempt funds shall continue to be exempt for up to six months from the date they are commingled.

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-430 RESOURCES—VEHICLES. (1) The department shall exclude the entire value of a licensed vehicle if it is:

(a) Used for income-producing purposes over fifty percent of the time it is in use. A vehicle excluded under this provision because the vehicle is used by a self-employed farmer shall retain its exclusion for one year from the date the household member terminates self-employment from farming;

(b) Annually producing income consistent with its fair market value;

(c) Essential to the employment of a household member, ineligible aliens, or disqualified persons whose resources are considered available to the household. This exclusion applies only if the vehicle is necessary for long distance travel other than daily commuting;

(d) Necessary for subsistence hunting or fishing;

(e) Used as the household's home; or

(f) Necessary to transport a physically disabled household member, ineligible aliens, or disqualified persons whose resources are available to the household. The exclusion is limited to one vehicle per physically disabled person.

(2) The department shall exclude the entire value of unlicensed vehicles:

(a) Driven by Indian tribal members on those reservations not requiring vehicle licensing, and

(b) Meeting one of the provisions in subsection (1) of this section.

(3) The department shall continue the exclusions described in subsection (1) and (2) of this section when the vehicle is not in use because of temporary unemployment.

(4) The department shall:

(a) Determine the fair market value of all licensed vehicles not excluded in subsections (1) and (2) of this section. Fair market value will be determined by the value of those vehicles as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies; and

(b) Count the fair market value of each vehicle in excess of four thousand five hundred dollars toward the household's resource maximum.

(5) The department shall determine the equity value of all licensed vehicles except:

(a) Those excluded in subsections (1) and (2) of this section,

(b) One licensed vehicle per household regardless of the use of the vehicle, and

(c) Any other licensed vehicle used for:

(i) Transportation to and from employment,

(ii) Seeking employment, or

(iii) Transportation for training or education which is preparatory to employment.

(6) The department shall count the equity value of licensed and unlicensed vehicles not excluded in subsections (1), (2), and ~~((4))~~ (5) of this section toward the household's maximum allowable resource limit.

(7) The department shall consider only the greater amount as a resource if the vehicle has:

(a) A countable fair market value in excess of four thousand five hundred dollars, and

(b) A countable equity value.

WSR 89-14-056
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed June 30, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning replacement allotments, amending WAC 388-49-570;

that the agency will at 10:00 a.m., Tuesday, August 8, 1989, in the OB-2 Auditorium, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 9, 1989.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is chapter 74.04 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1989.

Correspondence concerning this notice and proposed rules shown below should be addressed to:

Troyce Warner
 Office of Issuances
 Department of Social and Health Services
 Mailstop OB-33H
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of

Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 25, 1989. The meeting site is in a location which is barrier free.

Dated: June 28, 1989

By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-49-570.

Purpose of the Rule change: To amend the rules regarding the replacement of food stamp allotments.

Reason this Rule is Necessary: To implement Food and Nutrition Service (FNS) Administrative Notice 89-46 and final federal rules published February 15, 1989.

Statutory Authority: RCW 74.04.510.

Summary of Rule Change: Clarifies that stolen food coupon authorization (FCA) cards may be replaced; specifies when replacements must be requested; establishes a twice-in-six-months policy for all categories of replacements; designates countable versus noncountable replacements to indicate probable program loss; requires the household to surrender mutilated or improperly manufactured coupons; and other changes are editorial.

Person Responsible for Drafting and Implementation of the Rule: Randall Francom, Community Services Program Manager, Division of Income Assistance, mailstop OB-31C, 234-4918 scan.

This rule is necessary for compliance with final federal rules published February 15, 1989, 7 CFR 274.6.

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-570 REPLACEMENT ALLOTMENTS. (1) A household may request a replacement not to exceed a one-month allotment for:

(a) A food coupon authorization (FCA) or coupons received, but subsequently destroyed ~~((by))~~ in a household disaster;

(b) An FCA or coupons ~~((stolen-or))~~ lost in or stolen from the mail; ~~((or))~~

(c) An FCA stolen after receipt; or

(d) Food purchased with coupons and destroyed in a disaster.

(2) To request a replacement, the household shall:

(a) Report the destruction ~~((;))~~ or theft ~~((-or nonreceipt))~~ within ten days of the incident ~~((or within the period of intended use, whichever is earlier)); ((and))~~ or

(b) Report the nonreceipt within the period of intended use; and

(c) Sign an affidavit attesting to the destruction, theft, or nonreceipt within ten days of the report.

(3) The department shall not issue both a household disaster allotment to a household and a replacement allotment in a food and nutrition service (FNS) declared disaster.

(4) When a request for replacement is received, the department shall:

(a) Verify the disaster or theft;

(b) Determine if the coupons or FCA were validly issued, actually mailed, and if sufficient time has elapsed for delivery;

(c) Issue a replacement within ten days of the request ~~((;))~~

~~((d) Deny a request for replacement if the household has been:~~

~~((i) Issued one replacement for an FCA or coupons destroyed after receipt or an FCA stolen after receipt within the previous five-month period; or~~

~~((ii) Issued two replacements for an FCA or coupons lost or stolen in the mail before receipt within the previous five-month period;~~

~~((e) Deny a request for replacement of coupons mailed by certified mail if a signed receipt of delivery is obtained by the post office from any person residing or visiting at the address provided by the household; and~~

~~((f) Not issue a replacement if coupons or an FCA are lost or misplaced after receipt))~~ if the household is eligible for replacement.

- (5) The department shall deny a request for replacement when:
- (a) Coupons were mailed by certified mail and a signed receipt of delivery is obtained by the post office from any person residing or visiting at the household-provided address;
- (b) Coupons or an FCA are lost or misplaced after receipt;
- (c) Coupons are stolen after receipt;
- (d) The household was issued two countable replacements within the previous five months for FCAs or coupons lost in or stolen from the mail or for FCAs stolen after receipt; or
- (e) The household was issued two countable replacements within the previous five months for FCAs or coupons destroyed in a household disaster. This limit is in addition to the limit under subsection (5)(d) of this section.
- (6) The department shall not consider a replacement countable under subsection (5)(d) and (e) of this section if:
- (a) The original or replacement issuance is returned to the department;
- (b) The original or replacement FCA is not transacted; or
- (c) The replacement is issued due to department error.
- (7) The department shall deny or delay replacing an FCA when documentation substantiates the replacement request is fraudulent. The department shall:
- (a) Inform the household of its right to a fair hearing((:)); and
- (b) Continue the denial or delay pending the hearing decision.
- ~~((6))~~ (8) The department shall use other delivery methods after ((more than one request is)) two requests are received within a six-month period for replacement of:
- (a) An original or replacement FCA; or
- (b) Coupons lost in the mail ((within a six-month period)).
- ~~((7))~~ (9) If delivery of a partial allotment is reported, the department shall:
- (a) Verify the coupon loss was due to damage in the mail before delivery or a discrepancy in the issuance unit's inventory((:)); and
- (b) Issue the remainder of the allotment if the partial allotment is ~~((due to))~~ an issuance unit error ~~((in the issuance unit))~~ regardless of the number of times the household ~~((has received))~~ receives replacements within a six-month period.
- ~~((8))~~ (10) The department shall provide replacement for coupons received and found to be mutilated or improperly manufactured.
- (a) The replacement shall equal the value of the improperly manufactured or mutilated coupons.
- (b) Coupons shall not be replaced if less than three-fifths of the mutilated coupons remain.
- (c) The household shall surrender the mutilated or improperly manufactured coupons to the department.

WSR 89-14-057
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed June 30, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning:

- Amd WAC 388-81-052 Receipt of resources without giving adequate consideration.
- Amd WAC 388-92-043 Transfer of resources without adequate consideration.
- Rep WAC 388-93-070 Transfer of resources within two years prior to application;

that the agency will at 10:00 a.m., Tuesday, August 8, 1989, in the OB-2 Auditorium, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 9, 1989.

The authority under which these rules are proposed is chapter 87, Laws of 1989.

The specific statute these rules are intended to implement is chapter 87, Laws of 1989.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1989.

Correspondence concerning this notice and proposed rules shown below should be addressed to:

Troyce Warner
 Office of Issuances
 Department of Social and Health Services
 Mailstop OB-33H
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 25, 1989. The meeting site is in a location which is barrier free.

Dated: June 28, 1989

By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-81-052 and 388-92-043; and repealing WAC 388-93-070.

Purpose: To incorporate the ending date of this rule. The state law repealed the law for transfers done on or before June 30, 1989.

Reason: A change in the state law.

Statutory Authority: RCW 74.08.090.

Summary: The existing rules apply for transfers of resources on or before June 30, 1989. For transfers after July 1, 1989, WAC 388-95-395 applies.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Bobbe Andersen, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-0529.

Rules are proposed by DSHS.

These rules are necessary as a result of a new state law, chapter 87, Laws of 1989.

No economic impact statement is required under the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 2073, filed 2/1/84)

WAC 388-81-052 RECEIPT OF RESOURCES WITHOUT GIVING ADEQUATE CONSIDERATION. (1) The department shall find any person ((who knowingly and wilfully receives nonexempt resources transferred or assigned for less than fair market value after December 1, 1981, and within two years preceding the application for medical care, to enable an applicant or recipient to qualify or continue to qualify for Title XVI related medical assistance or the limited casualty program for the medically needy, is)) liable for a civil penalty and ((is) subject to referral for criminal prosecution for commission of a gross misdemeanor if the:

(a) Person knowingly and willingly receives nonexempt resources for less than fair market value;

(b) Nonexempt resources were transferred or assigned after December 1, 1981 and before July 1, 1989; and

(c) Transfer enables an applicant or recipient to qualify or continue to qualify for Title XVI related medical assistance or the limited casualty program for the medically needy.

(2) The department shall find no liability for resources transferred for less than fair market value made after June 30, 1989.

(3) Definitions:

(a) Transfer shall mean any act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by:

(i) An intentional act or transfer; or

(ii) Failure to act to preserve title to the resource.

(b) Fair market value means the reasonable value of a resource at the time of transfer or assignment.

(c) Uncompensated value means the fair market value of a resource minus the amount of compensation received in exchange for the resource.

(d) Value of compensation received means the consideration paid or agreed to be paid by the purchaser.

(e) Compensation includes:

(i) All money, real or personal property, food, shelter, or services received by the individual:

(A) At or after the time of transfer in exchange for the resource if the compensation was provided pursuant to a binding (legally enforceable) agreement in effect at the time of transfer; or

(B) ~~((Prior to))~~ Before the actual transfer if ~~((they were))~~ the compensation was provided pursuant to a binding (legally enforceable) agreement whereby the eligible individual ~~((would))~~ transfers the resource or otherwise pays for such item.

(ii) The payment or assumption of a legal debt owed by the individual in exchange for the resource.

~~((3))~~ (4) WAC 388-28-461, 388-28-462, and 388-28-465 are incorporated by reference and apply to this section, with the exception to the reference therein to WAC 388-28-460.

~~((4))~~ (5) The voluntary transfer or assignment of resources between spouses is permitted without affecting eligibility or continued eligibility of the spouse ~~((who transfers(ed)))~~ transferring or ~~((assigns(ed)))~~ assigning the resources.

~~((5))~~ (6) The amount of the civil penalty shall be equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value.

~~((6))~~ (7) The civil penalty shall not exceed the cost of assistance rendered by the department to the recipient.

~~((7))~~ (8) Written notice of imposition of the civil penalty shall be provided by personal service or certified mail to the individual or entity subject to the civil penalty.

~~((8))~~ (9) The person or entity alleged to be subject to the civil penalty under this section has the right to request a hearing to appeal the determination, and said hearing shall be in accordance with the administrative procedures in chapter 388-08 WAC except as modified by this section.

(a) There is a rebuttable presumption that a person who received cash or other nonexempt resources from an applicant or recipient for less than fair market value within two years preceding the date of application for medical care, did so knowingly and ~~((willfully))~~ willfully for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance.

(b) The person has the right to offer evidence to rebut the presumption that the transfer or assignment was made for purposes of enabling the applicant or recipient to qualify or continue to qualify for assistance and that the person knowingly and ~~((willfully))~~ willfully received the resource for such purpose.

(c) The prevailing party in such an action shall be awarded reasonable attorney fees.

AMENDATORY SECTION (Amending Order 2073, filed 2/1/84)

WAC 388-92-043 TRANSFER OF RESOURCES WITHOUT ADEQUATE CONSIDERATION. (1) This section ~~((is to))~~ shall implement Second Substitute House Bill No. 557 effective December 1, 1981.

(2) The department shall find an individual ~~((is))~~ ineligible for Title XVI categorical medical assistance or the medically needy component of the limited casualty program for a period determined under this section if:

(a) The person knowingly and ~~((willfully))~~ willfully assigns or transfers nonexempt resources at less than fair market value after December 1, 1981 ~~((, for));~~

(b) The individual's purpose of qualifying or continuing to qualify for ~~((such))~~ medical care within two years ~~((preceding))~~ precedes the date of application for ~~((such))~~ care; and

(c) Transfer occurred before July 1, 1989.

(3) For transfers made after June 30, 1989, the department shall not impose a penalty under this section. The department shall evaluate transfers for institutionalized individuals under WAC 388-95-395.

(4) Definitions:

(a) Transfer ~~((shall))~~ means any act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person ~~((, including)).~~

(i) Transferring property includes delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property.

(ii) Transfer of title to a resource occurs by:

~~((A))~~ (A) An intentional act or transfer; or

~~((B))~~ (B) Failure to act to preserve title to the resource.

(b) Fair market value means the reasonable value of a resource at the time of transfer or assignment.

(c) Uncompensated value means the fair market value of a resource at the time of transfer minus the amount of compensation received in exchange for the resource.

(d) Value of compensation received means the consideration paid or agreed to be paid by the purchaser.

(e) Compensation includes:

(i) All money, real or personal property, food, shelter, or services received by the individual:

(A) At or after the time of transfer in exchange for the resource if the compensation was provided pursuant to a binding (legally enforceable) agreement in effect at the time of transfer; or

(B) ~~((Prior to))~~ Before the actual transfer if ~~((they were))~~ compensation was provided pursuant to a binding (legally enforceable) agreement whereby the eligible individual would transfer the resource or otherwise pay for such item.

(ii) The payment or assumption of a legal debt owed by the individual in exchange for the resource.

~~((4))~~ (5) WAC 388-28-461, 388-28-462, and 388-28-465 ~~((are))~~ shall be incorporated by reference and apply to this section, with the exception to the reference ~~((therein to))~~ described under WAC 388-28-460.

~~((5))~~ (6) The voluntary transfer or assignment of resources between spouses is permitted without affecting eligibility or continued eligibility of the spouse ~~((who transfers(ed)))~~ transferring or ~~((assigns(ed)))~~ assigning the resources.

~~((6))~~ (7) The uncompensated fair market value of the ~~((resource))~~ assigned or transferred resource and the corresponding ~~((ineligibility))~~ ineligibility periods ~~((of ineligibility))~~ from the date of transfer ~~((are))~~ shall be as follows:

(a)	Dollar Amount of Uncompensated Value	Months of Ineligibility
	\$ 0 - \$ 1,000	1
	1,001 - 2,000	2
	2,001 - 3,000	3
	3,001 - 4,000	4
	4,001 - 5,000	5
	5,001 - 6,000	6
	6,001 - 7,000	7
	7,001 - 8,000	8
	8,001 - 9,000	9
	9,001 - 10,000	10
	10,001 - 11,000	11
	11,001 - 12,000	12
	12,001 - 13,500	13
	13,501 - 15,000	14
	15,001 - 16,500	15
	16,501 - 18,000	16
	18,001 - 19,500	17
	19,501 - 21,000	18
	21,001 - 22,500	19
	22,501 - 24,000	20
	24,001 - 25,500	21
	25,501 - 27,000	22
	27,001 - 28,500	23
	28,501 - 30,000	24
	30,001 - 31,667	25
	31,668 - 33,333	26
	33,334 - 35,000	27
	35,001 - 36,667	28
	36,668 - 38,333	29

Dollar Amount of Uncompensated Value	Months of Ineligibility
38,334 - 40,000	30
40,001 - 41,667	31
41,668 - 41,333	32
41,334 - 45,000	33
45,001 - 46,667	34
46,668 - 48,333	35
48,334 - 50,000	36
Over \$ 50,000	48

(b) The period of ineligibility shall not include partial months.

~~((77))~~ (8) If a transferred resource is returned to the individual, the uncompensated value ~~((is))~~ shall no longer be counted as of the date of return. The returned asset ~~((with))~~ shall be treated as a resource as of the first day of the following month.

~~((88))~~ (9) If the individual receives additional compensation in the form of cash for the transferred resource, the uncompensated value ~~((with))~~ shall be reduced by the amount of the additional compensation as of the date the additional compensation is received. The additional compensation ~~((with))~~ shall be treated as a resource as of the first day of the following month.

~~((99))~~ (10) The period of ineligibility may be waived if ~~((it is determined that))~~ the department determines the application of the period of ineligibility shall cause undue hardship.

~~((100))~~ (11) The department determines a person ~~((determined to be))~~ is ineligible for medical care under this section ~~((has))~~ and shall have the right to request a hearing to appeal the determination, except as modified by this section~~((;))~~. The procedure for the hearing is described under chapter 388-08 WAC.

(a) At a hearing, the department shall have the burden of proving ~~((that))~~ the:

(i) Person knowingly and ~~((willfully assigned))~~ willfully assigns or ~~((transferred))~~ transfers cash or other ~~((resource(s)))~~ resource at less than fair market value for the purpose of qualifying or continuing to qualify for assistance ~~((is on the department))~~; and ~~((the))~~

(ii) Burden of proof is a preponderance of the evidence.

(b) When the appellant is the prevailing party in the hearing, the appellant shall be awarded reasonable attorney fees.

~~((111))~~ (12) See WAC 388-81-052 for civil penalties ~~((to be applied))~~:

(a) Applying to persons ~~((who have received))~~ receiving nonexempt resources; and ~~((did))~~

(b) Not ~~((give))~~ giving the recipient adequate consideration.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-93-070 TRANSFER OF RESOURCES WITHIN TWO YEARS PRIOR TO APPLICATION.

**WSR 89-14-058
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 30, 1989]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning personal care services, new WAC 388-86-087;

that the agency will at 10:00 a.m., Tuesday, August 8, 1989, in the OB-2 Auditorium, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 9, 1989.

The authority under which these rules are proposed is chapter 19, Laws of 1989 1st ex. sess.

The specific statute these rules are intended to implement is chapter 19, Laws of 1989 1st ex. sess.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1989.

Correspondence concerning this notice and proposed rules shown below should be addressed to:

Troyce Warner
Office of Issuances
Department of Social and Health Services
Mailstop OB-33H
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 25, 1989. The meeting site is in a location which is barrier free.

Dated: June 28, 1989

By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: New WAC 388-86-087.

Purpose: To add personal care services to optional services available on the medical assistance categorically needy program.

Reason: The law provides for adding these services.

Statutory Authority: RCW 74.08.090.

Summary: Personal care services are provided by the department as an optional service to the medical assistance categorically needy when specified criteria is met.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Bobbe Andersen, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-0529.

Rules are proposed by DSHS.

These rules are necessary as a result of a new state law, chapter 19, Laws of 1989 1st ex. sess.

No economic impact statement is required under the Regulatory Fairness Act.

NEW SECTION

WAC 388-86-087 PERSONAL CARE SERVICES. The department shall authorize personal care services to eligible categorically needy persons under Title XIX as provided under WAC 388-15-810, 388-15-820, 388-15-830, 388-15-840, 388-15-850, 388-15-860, and 388-15-870.

**WSR 89-14-059
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 2810—Filed June 30, 1989]**

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the

annexed rules relating to Services available to recipients of categorical needy medical assistance, amending WAC 388-86-005; Payment—Eligible providers defined, amending WAC 388-87-005; and repealing WAC 388-86-02301 and 388-87-04701.

I, Leslie F. James, 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 this rule amendment is necessary to remove chiropractor care services, add midwifery, add personal care, and add hospice services in accordance with chapters 427 and [ESSB] 5352, Laws of 1989 to be effective July 1, 1989, at 12:01 a.m.

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

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

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.

APPROVED AND ADOPTED June 20, 1989.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2600, filed 3/2/88)

WAC 388-86-005 SERVICES AVAILABLE TO RECIPIENTS OF CATEGORICAL NEEDY MEDICAL ASSISTANCE. (1) The department shall provide the following Title XIX mandatory services:

(a) Early and periodic screening diagnosis and treatment services to eligible individuals (~~under twenty-one~~) twenty years of age or under;

(b) Family planning services;

(c) Home health agency services;

(d) Inpatient and outpatient hospital care;

(e) Other laboratory and x-ray services;

(f) Skilled nursing home care;

(g) Certified registered nurse practitioner services; and

(h) Physicians' services in the office or away from the office as needed for necessary and essential medical care.

(2) The department shall provide the following Title XIX optional services:

(a) Anesthetization services;

(b) Blood;

(c) (~~Chiropractic services~~;

~~(d)~~) Drugs and pharmaceutical supplies;

~~(e)~~) (d) Eyeglasses and examination;

~~(f)~~) (e) Hearing aids and examinations;

(f) Hospices services;

(g) Nurse and licensed midwife services;

(h) Oxygen;

(i) Personal care services;

(j) Physical therapy services;

~~(k)~~) (k) Private duty nursing services;

~~((k))~~) (l) Rural health clinic services;

~~((t))~~) (m) Surgical appliances;

~~((m))~~) (n) Prosthetic devices and certain other aids to mobility; and

~~((n))~~) (o) Dental services.

(3) The department shall limit organ transplants (~~shall be limited~~) to the cornea, heart, kidney, liver, and bone marrow.

(4) The department shall provide treatment, dialysis, equipment, and supplies for acute and chronic nonfunctioning kidneys (~~shall be provided~~) in the home, hospital, and kidney center. See WAC 388-86-050(5).

(5) The department shall provide detoxification and medical stabilization to chemically dependent pregnant women in a hospital or on an outpatient basis.

(6) The department shall not provide treatment to detoxify narcotic addiction cases, other than pregnant women, in a hospital or on an outpatient basis (~~shall not be provided~~) as a part of the medical assistance program. The department shall provide treatment for concurrent diseases and complications.

~~((f))~~) (7) The department shall provide detoxification of an acute alcoholic condition (~~shall be provided~~) only in a certified detoxification center or in a general hospital with certified detoxification facilities.

~~((f))~~) (8) The department shall approve requested services:

(a) That are listed in this section; and

(b) Where evidence is obtainable to establish medical necessity, (~~as~~) defined (~~in~~) under WAC 388-80-005, if the recipient or provider submits sufficient objective clinical information (~~f~~) including, but not limited to(~~;~~):

(i) A physiological description of the disease, injury, impairment, or other ailment;

(ii) Pertinent laboratory findings;

(iii) X-ray reports; and

(iv) Patient profiles(~~;~~).

~~((f))~~) (9) The department shall deny a request for medical services (~~shall be denied by the department~~) if the requested service is:

(a) (~~is~~) Not medically necessary as defined (~~in~~) under WAC 388-80-005; or

(b) (~~is~~) Generally regarded by the medical profession as experimental in nature or as unacceptable treatment, unless the recipient can demonstrate through sufficient objective clinical evidence the existence of particular circumstances which render the requested service medically necessary.

~~((f))~~) (10) The department shall:

(a) Approve or deny all requests for medical services within fifteen days of the receipt of the request; or

(b) If additional justifying information is necessary before a decision can be made, (~~the request shall be~~) neither (~~approved~~) approve nor (~~denied~~) deny the request, but shall (~~be returned~~) return the request to the provider within five working days of the original receipt. If additional justifying information is:

(i) (~~is~~) Not returned within thirty days of the date (~~it~~) the request was returned to the provider, then the department shall approve or deny the original request (~~shall be approved or denied~~).

(ii) ~~((1s))~~ Returned to the department, the department shall act on the request ~~((shall be acted upon))~~ within five working days of the receipt of the additional justifying information.

~~((10))~~ (11) ~~((Whenever))~~ When the department denies a request for medical services, the department shall, within five working days of the decision, give the recipient and the provider written notice of the denial ~~((to the recipient and the provider))~~. The notice shall state:

(a) The specific reasons for the department's conclusion to deny the requested service~~((:))~~;

(b) The recipient has a right to a fair hearing if the request is made within ninety days of receipt of the denial, with the instruction on how to request the hearing~~((:))~~;

(c) The recipient may be represented at the hearing by legal counsel or other representative~~((:))~~;

(d) That upon request, the CSO shall furnish the recipient the name and address of the nearest legal services office~~((:))~~; and

(e) If a fair hearing is requested, a medical assessment other than that of the person or persons involved in making the original decision may be obtained at the expense of the department.

~~((11))~~ (12) For services available under:

(a) The limited casualty program—medically needy ~~((f))~~, see chapter 388-99 WAC~~((:))~~; and

(b) The limited casualty program—medically indigent ~~((f))~~, see chapter 388-100 WAC~~((:))~~.

~~((12))~~ (13) The department may require a second opinion and/or consultation prior to the approval of any elective surgical procedure.

~~((13))~~ (14) The department shall designate those surgical procedures which:

(a) Can be performed in other than a hospital in-patient setting; and

(b) Require prior approval by the ~~((area medical))~~ central authorization unit for a hospital admission.

~~((14))~~ (15) The department shall assure the ~~((availability))~~ availability~~((f))~~ of necessary transportation to and from covered Title XIX medical services.

AMENDATORY SECTION (Amending Order 2665, filed 8/2/88)

WAC 388-87-005 PAYMENT—ELIGIBLE PROVIDERS DEFINED. (1) The following providers shall be eligible for enrollment to provide medical care services:

(a) Persons currently licensed by the state of Washington to practice medicine, osteopathy, dentistry, optometry, podiatry, midwifery, nursing, ~~((chiropractic))~~ dental hygiene, or physical therapy;

(b) A hospital currently licensed by the department;

(c) A nursing home currently licensed and classified by the department as a skilled nursing or intermediate care facility;

(d) A licensed pharmacy;

(e) A home health services agency certified according to chapter 70.126 RCW;

(f) An independent (outside) laboratory certified to participate under Title XVIII or determined currently to meet the Medicare requirements for such participation;

(g) A company or individual, not excluded in subsection (3) of this section, supplying items vital to the provision of medical care services such as ambulance service, oxygen, eyeglasses, other appliances, or approved services, not otherwise covered by this section;

(h) A provider of screening services that has signed an agreement with the department to provide such services to eligible individuals in the early and periodic screening and diagnosis and treatment (EPSDT) program;

(i) A qualified and approved center for the detoxification of acute alcoholic conditions;

(j) A qualified and approved outpatient clinical community mental health center, an approved inpatient psychiatric facility, drug treatment center, or Indian health service clinic;

(k) A Medicare certified rural health clinic;

(l) Approved prepaid health maintenance, prepaid health plans and/or health insuring organizations; and

(m) An out-of-state provider of services listed in subsection (1)(a) through (k) of this section subject to conditions specified in WAC 388-87-105.

(2) Under the mandatory and discretionary provision of RCW 74.09.530, the services of the following practitioners shall not be furnished to applicants or recipients:

(a) Sanipractors;

(b) Naturopaths;

(c) Homopaths;

(d) Herbalists;

(e) Masseurs or manipulators;

(f) Christian Science practitioners or theological healers; and

(g) Any other licensed or unlicensed practitioners not otherwise specifically provided for in these rules.

(3) Conditions of eligibility.

(a) Nothing in this section shall bind the department to enroll all eligible providers capable of delivering covered services. The department shall demonstrate its plan for service delivery creates adequate access to covered services.

(b) When a provider has a restricted professional license or has been terminated, excluded, or suspended from the Medicare/Medicaid programs, the department shall not authorize provider eligibility unless the department has determined the violations leading to the sanction or license restriction are not likely to be repeated. In its determination, the department shall consider whether the provider has been convicted of offenses related to the delivery of professional or other services not considered during the development of the previous sanction.

(c) The department shall not reinstate in the medical assistance program, a provider suspended from Medicare or suspended by the department of health and human services (DHHS) until notified by DHHS that the provider may be reinstated.

(d) Nothing in this subsection shall preclude the department from denying provider enrollment if, in the opinion of the medical director, division of medical assistance, the provider constitutes a danger to the health and safety of recipients.

REPEALER

The following section of the Washington Administration Code is repealed:

WAC 388-86-02301 CHIROPRACTIC SERVICES.

REPEALER

The following section of the Washington Administration Code is repealed:

WAC 388-87-04701 PAYMENT—CHIROPRACTIC SERVICES.

WSR 89-14-060
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2813—Filed June 30, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to common eligibility conditions, amending WAC 388-55-010.

I, Leslie F. James, 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 this rule amendment is necessary to require recipients of refugee cash assistance to submit mandatory monthly reports under the same criteria as AFDC as a condition of eligibility in accordance with Federal Register 54 FR 5463 to be effective July 1, 1989, 12:01 a.m.

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

This rule is promulgated pursuant to RCW 43.20A-.550 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 19, 1989.

By Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2752, filed 1/6/89)

WAC 388-55-010 COMMON ELIGIBILITY CONDITIONS. (1) The department shall grant assistance to refugees within the provisions of P.L. 96-212, the Refugee Assistance Program.

(2) For the purpose of the refugee assistance program, the department defines refugee as a person who has fled

from and cannot return to (~~his or her~~) the refugee's country due to persecution or fear of persecution because of race, religion, or political opinion. Under this definition, the department shall include the following persons as refugees:

(a) A person from Cambodia, Laos, or Vietnam who:
 (i) Has parole status; or
 (ii) Has voluntary departure status; or
 (iii) Has conditional entry status; or
 (iv) Was admitted to the United States with permanent resident status on or after April 8, 1975 (the date the president designated Vietnamese and Cambodians to be refugees under the Migration and Refugee Assistance Act); or

(v) Has permanent resident status as a result of adjustment of status under P.L. 95-145.

(b) A person from Cuba receiving assistance or services under the Cuban phase-down program, who entered the United States on or after October 1, 1978. Such persons shall have:

(i) A registration card issued by the United States Cuban Refugee Center in Miami on or after October 1, 1978; and

(ii) Immigration and Naturalization Service (INS) documentation sufficient to establish the person entered the United States on or after October 1, 1978, or verification with the United States Cuban Refugee Center of the person's date of entry.

(c) A person from any country having parole status as a refugee or asylee under Section 212 (d)(5) of the INA;

(d) A person admitted from any country as a conditional entrant under Section 203 (a)(7) of the INA;

(e) A person from any country admitted as a refugee under Section 207 of the Immigration and Naturalization Act (INA);

(f) A person classified as an Amerasian immigrant from Vietnam admitted through the orderly departure program, under section 584 of the Foreign Operations Appropriations Act, incorporated in the FY88 Continuing Resolution P.L. 100-202;

(g) A person from any country having been granted asylum under Section 208 of the INA; and

(h) A person from any country previously holding one of the statuses identified in this section whose status has changed to permanent resident alien.

(3) The department shall transfer eligible refugees to the AFDC, FIP, and/or Medicaid programs retroactively effective October 1, 1977, or as of such date as the refugees qualified for refugee assistance, whichever is later. The department shall regard such refugees as recipients rather than new applicants and shall disregard (~~their~~) the recipient's income accordingly.

(4) The department shall determine eligibility for AFDC or Medicaid before determining eligibility for the refugee assistance program for applications from refugees not currently receiving refugee cash assistance and/or medical assistance.

(a) If (~~the department determines~~) the applicant is not eligible for AFDC or FIP, then the department shall determine eligibility under the refugee assistance program.

(b) If ~~((the department determines))~~ the applicant is not eligible for Medicaid, then the department shall determine eligibility under the refugee assistance program.

(5) The department shall waive requirements of categorical relatedness of federal assistance programs, except for mandatory monthly reporting, for refugee assistance program. Requirements under WAC 388-24-044 apply.

(6) The department shall determine as not eligible for refugee assistance, refugees terminated from the AFDC program because of refusal to comply with eligibility requirements.

(7) Except as specified in subsection (8) of this section, the department shall provide assistance to all refugees, regardless of family composition, at the AFDC monthly standards. The department shall treat income and resources according to AFDC standards. The department shall not consider resources which are unavailable, including property remaining in other countries, in determining eligibility for financial assistance.

(8) Applicants for and recipients of refugee assistance are not eligible for the thirty dollar plus one-third of the remainder exemption from earned income.

(9) The department shall treat the refugee family unit including United States citizen's children, by virtue of being born in this country, as a single assistance unit under the refugee assistance program ~~((in accordance with))~~ under the provisions of WAC 388-24-050.

(10) Beginning October 1, 1988, the department shall consider refugees meeting the criteria in this section as eligible for refugee assistance only during the twelve-month period beginning the first of the month the refugee entered the United States.

(11) The department shall not consider full-time students in an institution of higher education eligible for refugee assistance, unless participating in a department-approved job or language training program not to exceed twelve months.

(12) The department shall notify the voluntary agency (VOLAG) sponsoring the refugee ~~((whenever))~~ when the refugee applies for assistance.

(13) Refugees meeting the criteria in this section are eligible for additional requirements for emergent situations ~~((as in))~~ under chapter 388-29 WAC.

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 89-14-061
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(General Provisions)

[Order 2814—Filed June 30, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Overpayment—Repayment, amending chapter 440-44 WAC.

I, Leslie F. James, 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 this rule amendment is necessary to adjust fees annually to cover the cost of programs: To eliminate fees for ambulance/first-aid vehicle licensing and inspection, adjust fees for radiation, machine facility registration, hospitals, home health, hospice, psychiatric hospitals, abortion and birthing centers, alcoholism treatment facilities, residential treatment facilities and boarding homes to be effective July 1, 1989, 12:01 a.m.

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

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

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.

APPROVED AND ADOPTED June 21, 1989.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 1825, filed 6/4/82)

WAC 440-44-023 **AMBULANCES AND FIRST-AID VEHICLES LICENSING AND INSPECTION FEES.** ~~((The following))~~ The department shall assess no annual fees ((shall be assessed)) for inspection and licensing of ambulances and first-aid vehicles((-

(1) Ambulance vehicles—Forty-five dollars.

(2) First-aid vehicles—Twenty-five dollars.)) since municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW ((shall be)) are exempt from such fees and constitute ninety-five percent of all agencies requiring licenses.

AMENDATORY SECTION (Amending Order 2493, filed 7/1/87)

WAC 440-44-040 **MEDICAL FACILITIES ((AND BOARDING HOMES)) LICENSING FEES.**

(1) Hospitals licensed under chapter 70.41 RCW shall: ((The annual fee shall be nineteen dollars for each bed space within the licensed bed capacity of the hospital: The licensed bed capacity of a hospital shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-18 WAC for twenty-four hour assigned patient rooms including neonatal intensive care bassinets spaces. Bed spaces not used for twenty-four hour assigned patient use, in compliance with the physical plant requirements of chapter 248-18 WAC but not containing the required movable equipment, shall be included in the licensed bed capacity. PROVIDED, That the hospital certifies to the department the hospital currently possesses the required movable equipment. The licensed bed

~~capacity shall exclude all normal infant bassinets. The number of licensed bed spaces shall be limited in accordance with decisions made under chapter 70.38 RCW, and bed additions subsequent to the establishment of each hospital's licensed bed capacity by the department shall be subject to review under chapter 70.38 RCW. The number of twenty-four hour assigned patient beds set up in a hospital shall not exceed the hospital's licensed bed capacity))~~

~~(a) Submit an annual license fee of nineteen dollars for each bed space within the licensed bed capacity of the hospital to the department;~~

~~(b) Include all bed spaces in rooms complying with physical plant and movable equipment requirements of chapter 248-18 WAC for twenty-four-hour assigned patient rooms;~~

~~(c) Include neonatal intensive care bassinet spaces;~~

~~(d) Include bed spaces assigned for less than twenty-four-hour patient use as part of the licensed bed capacity when:~~

~~(i) Physical plant requirements of chapter 248-18 WAC are met without movable equipment; and~~

~~(ii) The hospital currently possesses the required movable equipment and certifies this fact to the department.~~

~~(e) Exclude all normal infant bassinets;~~

~~(f) Limit licensed bed spaces as required under chapter 70.38 RCW;~~

~~(g) Submit an application for bed additions to the department for review and approval under chapter 70.38 RCW subsequent to department establishment of the hospital licensed bed capacity; and~~

~~(h) Set up twenty-four-hour assigned patient beds only within the licensed bed capacity approved by the department.~~

~~(2) Private psychiatric hospitals licensed under chapter 71.12 RCW shall: ((The annual fee shall be twenty-seven dollars for each bed space within the licensed bed capacity of the private psychiatric hospital. The licensed bed capacity of a private psychiatric hospital shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four hour assigned patient rooms. Bed spaces not used for twenty-four hour assigned patient use, in compliance with the physical plant requirement of chapter 248-22 WAC but not containing the required movable equipment, will be included in the licensed bed capacity. PROVIDED, That the private psychiatric hospital certifies to the department the private psychiatric hospital currently possesses the required movable equipment.~~

~~The number of licensed bed spaces shall be limited in accordance with decisions made under chapter 70.38 RCW, and bed additions subsequent to the establishment of each private psychiatric hospital's licensed bed capacity by the department shall be subject to review under chapter 70.38 RCW. The number of twenty-four hour assigned patient beds set up in a private psychiatric hospital shall not exceed the private psychiatric hospital's licensed bed capacity))~~

~~(a) Submit an annual fee of twenty-seven dollars for each bed space within the licensed bed capacity of the hospital to the department;~~

~~(b) Include all bed spaces and rooms complying with physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four-hour assigned patient rooms;~~

~~(c) Include bed spaces assigned for less than twenty-four-hour patient use as part of the licensed bed capacity when:~~

~~(i) Physical plant requirements of chapter 248-22 WAC are met without movable equipment; and~~

~~(ii) The private psychiatric hospital currently possesses the required movable equipment and certifies this fact to the department.~~

~~(d) Limit licensed bed spaces as required under chapter 70.38 RCW;~~

~~(e) Submit applications for bed additions to the department for review and approval under chapter 70.38 RCW subsequent to department establishment of the private psychiatric hospital's licensed bed capacity; and~~

~~(f) Set up twenty-four-hour assigned patient beds only within the licensed bed capacity approved by the department.~~

~~(3) Alcoholism hospitals licensed under chapter 71.12 RCW shall: ((The annual fee shall be twenty dollars for each bed space within the licensed bed capacity of the alcoholism hospital. The licensed bed capacity of an alcoholism hospital shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four hour assigned patient rooms. The number of twenty-four hour assigned patient beds set up in an alcoholism hospital shall not exceed the alcoholism hospital's licensed bed capacity))~~

~~(a) Submit an annual fee of twenty dollars for each bed space within the licensed bed capacity of the alcoholism hospital to the department;~~

~~(b) Include all bed spaces in rooms complying with physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four-hour assigned patient rooms;~~

~~(c) Include bed spaces assigned for less than twenty-four-hour patient use as part of the licensed bed capacity when:~~

~~(i) Physical plant requirements of chapter 248-22 WAC are met without movable equipment; and~~

~~(ii) The alcoholism hospital currently possesses the required movable equipment and certifies this fact to the department.~~

~~(d) Limit licensed bed spaces as required under chapter 70.38 RCW;~~

~~(e) Submit an application for bed additions to the department for review and approval under chapter 70.38 RCW subsequent to the department establishment of the alcoholism hospital's licensed bed capacity; and~~

~~(f) Set up twenty-four-hour assigned patient beds only within the licensed bed capacity approved by the department.~~

~~(4) ((Alcoholism treatment facilities. The annual fee shall be twelve dollars and fifty cents for each bed space~~

~~within the licensed bed capacity of the alcoholism treatment facility. The licensed bed capacity of an alcoholism treatment facility shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four hour assigned patient rooms. The number of twenty-four hour assigned patient beds set up in an alcoholism treatment facility shall not exceed the alcoholism treatment facility's licensed bed capacity.~~

~~(5) Boarding homes. The annual fee shall be thirteen dollars times the licensed resident capacity of the boarding home. The licensed resident capacity is the capacity determined by the boarding home and approved by the department. The licensed resident capacity shall be consistent with the physical plant and movable equipment requirements of chapter 248-16 WAC for resident sleeping rooms. The number of residents in a boarding home shall not exceed the licensed resident capacity of the boarding home. The term "resident" as used herein is defined in WAC 248-16-001.~~

~~(6) Residential treatment facilities for psychiatrically impaired children and youth. The annual fee shall be fifty-two dollars for each bed space within the licensed bed capacity of the residential treatment facility for psychiatrically impaired children and youth. The licensed bed capacity of a residential treatment facility for psychiatrically impaired children and youth shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-23 WAC for client sleeping rooms. The number of beds set up in a residential treatment facility for psychiatrically impaired children and youth shall not exceed the residential treatment facility for psychiatrically impaired children and youth licensed bed capacity.~~

~~(7) Pregnancy termination facilities. The annual fee for licensing and certification of facilities for induction or termination of pregnancy in the second trimester shall be two hundred fifty dollars.~~

~~(8) Child birth centers. The annual fee shall be five hundred dollars. PROVIDED, That no fee shall be required of charitable, nonprofit or government-operated institutions (as required by RCW 18.46.030).~~

~~(9) Residential treatment and rehabilitation facilities for psychiatrically impaired adults. The annual fee shall be fifty dollars for each bed space within the licensed bed capacity of the residential treatment and rehabilitation facility for psychiatrically impaired adults. The licensed bed capacity of a residential treatment and rehabilitation facility for psychiatrically impaired adults shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-25 WAC for client sleeping rooms. The number of beds set up in a residential treatment and rehabilitation facility for psychiatrically impaired adults shall not exceed the residential treatment and rehabilitation facility for psychiatrically impaired adults licensed bed capacity.~~

~~(10) Hospice care centers. Each application for a license shall be accompanied by a license fee of three hundred dollars.~~

~~(11) Hospice agencies. The annual fee for each facility certified under chapter 70.126 RCW shall be three hundred dollars.~~

~~(12) Home health agencies. The annual fee for each facility certified under chapter 70.126 RCW shall be three hundred dollars)) Hospice care centers licensed under chapter 70.41 RCW shall include a license fee of three hundred dollars with each application for a license.~~

NEW SECTION

WAC 440-44-041 CHILDBIRTH CENTERS AND PREGNANCY TERMINATION FACILITIES.

(1) Childbirth centers licensed under chapter 18.46 RCW shall submit an annual fee of five hundred dollars to the department unless a center is a charitable, non-profit, or government-operated institution under RCW 18.46.030.

(2) Pregnancy termination facilities certified under chapter 9.02 RCW shall submit an annual fee of two hundred and fifty dollars to the department for licensing and certification of facilities for induction or termination of pregnancy in the second trimester.

NEW SECTION

WAC 440-44-042 HOSPICE AND HOME HEALTH AND HOME CARE AGENCIES.

(1) Hospice agencies licensed under chapter 70.127 RCW shall submit an annual license fee of five hundred dollars to the department.

(2) Home health agencies licensed under chapter 70.127 RCW shall submit an annual license fee of six hundred dollars to the department.

(3) Home care agencies licensed under chapter 70.127 RCW shall submit an annual license fee of six hundred twenty-five dollars to the department.

(4) The department shall assess annual fees for combinations of initial license or renewal licenses under RCW 70.127.110 as follows:

- (a) Home health and hospice... eight hundred dollars;
- (b) Home health and home care one thousand dollars;
- (c) Hospice and home care seven hundred dollars; and
- (d) Home health, hospice, and home care.... one thousand two hundred dollars.

NEW SECTION

WAC 440-44-043 BOARDING HOMES AND TREATMENT FACILITIES LICENSING FEES.

(1) Boarding homes licensed under chapter 18.20 RCW shall:

(a) Submit an annual fee of fourteen dollars multiplied by the department-approved capacity of the boarding home;

(b) Define "resident" as defined under WAC 248-16-001;

(c) Define "licensed resident capacity" as the resident occupancy level determined by the boarding home and approved by the department, consistent with physical plant and movable equipment requirements for resident sleeping rooms under chapter 248-16 WAC; and

(d) Maintain occupancy level at or below the licensed resident capacity of the boarding home.

(2) Alcoholism treatment facilities licensed under chapter 71.12 RCW shall:

(a) Submit an annual fee of fifteen dollars for each bed space within the licensed bed capacity of the alcoholism treatment facility to the department;

(b) Include all bed spaces in rooms complying with physical plant and movable equipment requirements of chapter 248-26 WAC for twenty-four-hour assigned patient rooms; and

(c) Set up twenty-four-hour assigned patient beds only within the licensed bed capacity approved by the department.

(3) Residential treatment facilities for psychiatrically impaired children and youth (RTF-CY) licensed under chapter 71.12 RCW shall:

(a) Submit an annual fee of thirty-five dollars for each bed space within the licensed bed capacity of the RTF-CY;

(b) Include all bed spaces and rooms complying with physical plant and movable equipment requirements of chapter 248-23 WAC; and

(c) Set up twenty-four-hour assigned patient beds only within the licensed bed capacity approved by the department.

(4) Adult residential rehabilitation centers (ARRC) licensed under chapter 71.12 RCW shall:

(a) Submit an annual fee of thirty-five dollars for each bed space within the licensed bed capacity of the ARRC;

(b) Include all bed spaces in rooms complying with physical plant and movable equipment requirements in chapter 248-25 WAC for client sleeping rooms; and

(c) Set up twenty-four-hour assigned client beds only within the licensed bed capacity approved by the department.

AMENDATORY SECTION (Amending Order 2359, filed 3/28/86)

WAC 440-44-050 RADIATION MACHINE FACILITY REGISTRATION FEES. ~~((The following biennial fees are required at the time of application or renewal. For any facility or group of facilities under one administrative control the maximum fee of three thousand dollars has been established.))~~

(1) Persons owning and/or leasing and using radiation-producing machines shall submit a fifty dollar registration fee to the department at the time of application and every two years thereafter. In addition:

(a) For dentists, veterinarians, and podiatrists, add: ((A fifty dollar registration fee plus))

(i) Sixty dollars for the first tube ((plus twenty-five)); and

(ii) Twenty dollars for each additional tube.

((2)) (b) For hospitals(;) and medical ((and)) or chiropractic facilities, add: ((A fifty dollar registration fee plus))

(i) One hundred ((seventy-five)) eighty dollars for the first tube ((plus fifty)); and

(ii) Sixty dollars for each additional tube.

((3)) (c) For industrial, research, and ((others)) other uses, add: ((A fifty dollar registration fee plus))

(i) One hundred dollars for the first tube ((plus fifty)); and

(ii) Thirty dollars for each additional tube.

((4)) (2) ((For dentists. A fifty dollar registration fee plus forty-five dollars for the first tube plus twenty dollars for each additional tube)) The department shall charge a maximum of three thousand dollars total fee for any facilities under one administration.

WSR 89-14-062
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2816—Filed June 30, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to unallowable costs, amending WAC 388-96-585.

I, Leslie F. James, 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 this rule amendment is necessary to add three expenses to the list of costs unallowable for reimbursement under the Medicaid program for skilled nursing and intermediate care facilities in accordance with chapter 372, Laws of 1989 to become effective July 1, 1989, 12:01 a.m.

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

This rule is promulgated pursuant to RCW 74.46.800 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 21, 1989.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2742, filed 12/21/88)

WAC 388-96-585 UNALLOWABLE COSTS. (1) The department shall not allow costs if not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) The department shall include, but not limit unallowable costs to the following:

(a) Costs of items or services not covered by the medical care program. Costs of nonprogram items or services even if indirectly reimbursed by the department as the result of an authorized reduction in patient contribution.

(b) Costs of services and items provided to SNF or ICF recipients (~~which are~~) covered by the department's medical care program but not included in SNF or ICF services respectively. Items and services covered by the medical care program are listed in chapters 388-86 and 388-88 WAC.

(c) Costs associated with a capital expenditure subject to Section 1122 approval (Part 100, Title 42 C.F.R.) if the department found the capital expenditure inconsistent with applicable standards, criteria, or plans. If the contractor did not give the department timely notice of a proposed capital expenditure, all associated costs shall be nonallowable as of the date the costs are determined not to be reimbursable under applicable federal regulations.

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained.

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes or related to the part of a facility leased out for office space).

(f) Salaries or other compensation of owners, officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care.

(g) Costs in excess of limits or violating principles set forth in this chapter.

(h) Costs resulting from transactions or the application of accounting methods circumventing the principles of the prospective cost-related reimbursement system.

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere.

(j) Bad debts. Beginning July 1, 1983, the department shall allow bad debts of Title XIX recipients only if:

(i) The debt is related to covered services;

(ii) It arises from the recipient's required contribution toward the cost of care;

(iii) The provider can establish reasonable collection efforts were made;

(iv) The debt was actually uncollectible when claimed as worthless; and

(v) Sound business judgment established there was no likelihood of recovery at any time in the future.

Reasonable collection efforts shall consist of three documented attempts by the contractor to obtain payment. Such documentation shall demonstrate the effort devoted to collect the bad debts of Title XIX recipients is at the same level as the effort normally devoted by the contractor to collect the bad debts of non-Title XIX patients. Should a contractor collect on a bad debt, in whole or in part, after filing a cost report, reimbursement for the debt by the department shall be refunded to the department to the extent of recovery. The department shall compensate a contractor for bad debts of Title XIX recipients at final settlement through the final settlement process only.

(k) Charity and courtesy allowances.

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs

incurred to improve community or public relations. Any portion of trade association dues attributable to legal and consultant fees and costs in connection with lawsuits or other legal action against the department shall be unallowable.

(m) Vending machine expenses.

(n) Expenses for barber or beautician services not included in routine care.

(o) Funeral and burial expenses.

(p) Costs of gift shop operations and inventory.

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except items used in patient activity programs where clothing is a part of routine care.

(r) Fund-raising expenses, except expenses directly related to the patient activity program.

(s) Penalties and fines.

(t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations.

(u) Federal, state, and other income taxes.

(v) Costs of special care services except where authorized by the department.

(w) Expenses of key-man insurance and other insurance or retirement plans not in fact made available to all employees on an equal or fair basis in terms of costs to employees and benefits commensurate to such costs.

(x) Expenses of profit-sharing plans.

(y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care.

(z) Personal expenses and allowances of owners or relatives.

(aa) All expenses of maintaining professional licenses or membership in professional organizations.

(bb) Costs related to agreements not to compete.

(cc) Goodwill and amortization of goodwill.

(dd) Expense related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care.

(ee) Legal and consultant fees in connection with a fair hearing against the department relating to those issues where:

(i) A final administrative decision is rendered in favor of the department or where otherwise the determination of the department stands at the termination of administrative review; or

(ii) In connection with a fair hearing, a final administrative decision has not been rendered; or

(iii) In connection with a fair hearing, related costs are not reported as unallowable and identified by fair hearing docket number in the period they are incurred if no final administrative decision has been rendered at the end of the report period; or

(iv) In connection with a fair hearing, related costs are not reported as allowable, identified by docket number, and prorated by the number of issues decided favorably to a contractor in the period a final administrative decision is rendered.

(ff) Legal and consultant fees in connection with a lawsuit against the department, including suits which are appeals of administrative decisions.

(gg) Lease acquisition costs and other intangibles not related to patient care.

(hh) Interest charges assessed by the state of Washington for failure to make timely refund of overpayments and interest expenses incurred for loans obtained to make such refunds.

(ii) Beginning January 1, 1985, lease costs, including operating and capital leases, except for office equipment operating lease costs.

(jj) Beginning January 1, 1985, interest costs.

(kk) Travel expenses outside the states of Idaho, Oregon, and Washington, and the Province of British Columbia. However, travel to or from the home or central office of a chain organization operating a nursing home will be allowed whether inside or outside these areas if such travel is necessary, ordinary, and related to patient care.

(ll) Board of director fees for services in excess of one hundred dollars per board member, per meeting, not to exceed twelve meetings per year.

(mm) Moving expenses of employees in the absence of a demonstrated, good-faith effort to recruit within the states of Idaho, Oregon, and Washington, and the Province of British Columbia.

(nn) Depreciation expense in excess of twenty-five hundred dollars per year for passenger cars or other vehicles primarily used for the administrator, facility staff, or central office staff.

(oo) Any costs associated with the use of temporary health care personnel from any nursing pool not registered with the director of the department of licensing at the time of such pool personnel use.

(pp) Costs of payroll taxes associated with compensation in excess of allowable compensation for owners, relatives, and administrative personnel.

(qq) Department-imposed postsurvey charges incurred by the facility as a result of subsequent inspections which occur beyond the first postsurvey visit during the certification survey calendar year.

(rr) Costs and fees otherwise allowable for legal services, whether purchased, allocated by a home office, regional office or management company, or performed by the contractor or employees of the contractor, in excess of the eighty-fifth percentile of such costs, measured on a total cost basis, reported by all contractors for the most recent cost report period: PROVIDED, That this limit shall not apply to a contractor if the contractor has not exceeded this percentile at any time during the three years preceding the most recent cost report year.

(ss) Costs and fees otherwise allowable for accounting and bookkeeping services, whether purchased, allocated by a home office, regional office or management company, or performed by the contractor or employees of the contractor, in excess of the eighty-fifth percentile of such costs, measured on a per patient-day cost basis, reported by all contractors for the most recent cost report period: PROVIDED, That this limit shall not apply to a

contractor if the contractor has not exceeded this percentile at any time during the three years preceding the most recent cost report year.

WSR 89-14-063
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2818—Filed June 30, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal care services, new WAC 388-86-087.

I, Leslie F. James, 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 this rule is necessary to add personal care services to the categorically needy program in accordance to criteria in chapter 19, Laws of 1989 1st ex. sess. to be effective July 1, 1989, at 12:01 a.m.

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

This rule is promulgated pursuant to chapter 19, Laws of 1989 1st ex. sess. and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 28, 1989.

By Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-86-087 PERSONAL CARE SERVICES. *The department shall authorize personal care services to eligible categorically needy persons under Title XIX as provided under WAC 388-15-810, 388-15-820, 388-15-830, 388-15-840, 388-15-850, 388-15-860, and 388-15-870.*

WSR 89-14-064
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2819—Filed June 30, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

- Amd WAC 388-81-052 Receipt of resources without giving adequate consideration.
- Amd WAC 388-92-043 Transfer of resources without adequate consideration.
- Rep WAC 388-93-070 Transfer of resources within two years prior to application.

I, Leslie F. James, 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 necessary to be amended to repeal the law for transfers done on or before June 30, 1989, in accordance with chapter 87, Laws of 1989 to be effective July 1, 1989, 12:01 a.m.

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

This rule is promulgated pursuant to chapter 87, Laws of 1989 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 28, 1989.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2073, filed 2/1/84)

WAC 388-81-052 RECEIPT OF RESOURCES WITHOUT GIVING ADEQUATE CONSIDERATION. (1) ~~The department shall find any person ((who knowingly and wilfully receives nonexempt resources transferred or assigned for less than fair market value after December 1, 1981, and within two years preceding the application for medical care, to enable an applicant or recipient to qualify or continue to qualify for Title XVI related medical assistance or the limited casualty program for the medically needy, is))~~ liable for a civil penalty and ~~((is))~~ subject to referral for criminal prosecution for commission of a gross misdemeanor if the:

- (a) Person knowingly and willingly receives nonexempt resources for less than fair market value;
- (b) Nonexempt resources were transferred or assigned after December 1, 1981 and before July 1, 1989; and
- (c) Transfer enables an applicant or recipient to qualify or continue to qualify for Title XVI related medical assistance or the limited casualty program for the medically needy.

(2) The department shall find no liability for resources transferred for less than fair market value made after June 30, 1989.

(3) Definitions:

(a) Transfer shall mean any act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills

of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by:

- (i) An intentional act or transfer, or
 - (ii) Failure to act to preserve title to the resource.
- (b) Fair market value means the reasonable value of a resource at the time of transfer or assignment.
- (c) Uncompensated value means the fair market value of a resource minus the amount of compensation received in exchange for the resource.

(d) Value of compensation received means the consideration paid or agreed to be paid by the purchaser.

(e) Compensation includes:

(i) All money, real or personal property, food, shelter, or services received by the individual:

(A) At or after the time of transfer in exchange for the resource if the compensation was provided pursuant to a binding (legally enforceable) agreement in effect at the time of transfer; or

(B) ~~((Prior to))~~ Before the actual transfer if ~~((they were))~~ the compensation was provided pursuant to a binding (legally enforceable) agreement whereby the eligible individual ~~((would))~~ transfers the resource or otherwise pays for such item.

(ii) The payment or assumption of a legal debt owed by the individual in exchange for the resource.

~~((3))~~ (4) WAC 388-28-461, 388-28-462, and 388-28-465 are incorporated by reference and apply to this section, with the exception to the reference therein to WAC 388-28-460.

~~((4))~~ (5) The voluntary transfer or assignment of resources between spouses is permitted without affecting eligibility or continued eligibility of the spouse ~~((who transfers(ed))~~ transferring or ~~((assigns(ed))~~ assigning the resources.

~~((5))~~ (6) The amount of the civil penalty shall be equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value.

~~((6))~~ (7) The civil penalty shall not exceed the cost of assistance rendered by the department to the recipient.

~~((7))~~ (8) Written notice of imposition of the civil penalty shall be provided by personal service or certified mail to the individual or entity subject to the civil penalty.

~~((8))~~ (9) The person or entity alleged to be subject to the civil penalty under this section has the right to request a hearing to appeal the determination, and said hearing shall be in accordance with the administrative procedures in chapter 388-08 WAC except as modified by this section.

(a) There is a rebuttable presumption that a person who received cash or other nonexempt resources from an applicant or recipient for less than fair market value within two years preceding the date of application for medical care, did so knowingly and ~~((wilfully))~~ willfully for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance.

(b) The person has the right to offer evidence to rebut the presumption that the transfer or assignment was made for purposes of enabling the applicant or recipient

to qualify or continue to qualify for assistance and that the person knowingly and (~~willfully~~) willfully received the resource for such purpose.

(c) The prevailing party in such an action shall be awarded reasonable attorney fees.

AMENDATORY SECTION (Amending Order 2073, filed 2/1/84)

WAC 388-92-043 TRANSFER OF RESOURCES WITHOUT ADEQUATE CONSIDERATION. (1) This section (~~is to~~) shall implement Second Substitute House Bill No. 557 effective December 1, 1981.

(2) The department shall find an individual (~~is~~) ineligible for Title XVI categorical medical assistance or the medically needy component of the limited casualty program for a period determined under this section if:

(a) The person knowingly and (~~willfully~~) willfully assigns or transfers nonexempt resources at less than fair market value after December 1, 1981(~~for~~);

(b) The individual's purpose of qualifying or continuing to qualify for (~~such~~) medical care within two years (~~preceding~~) precedes the date of application for (~~such~~) care, and

(c) Transfer occurred before July 1, 1989.

(3) For transfers made after June 30, 1989, the department shall not impose a penalty under this section. The department shall evaluate transfers for institutionalized individuals under WAC 388-95-395.

(4) Definitions:

(a) Transfer (~~shall~~) means any act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person(~~including~~).

(i) Transferring property includes delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property.

(ii) Transfer of title to a resource occurs by:

(~~it~~) (A) An intentional act or transfer, or

(~~it~~) (B) Failure to act to preserve title to the resource.

(b) Fair market value means the reasonable value of a resource at the time of transfer or assignment.

(c) Uncompensated value means the fair market value of a resource at the time of transfer minus the amount of compensation received in exchange for the resource.

(d) Value of compensation received means the consideration paid or agreed to be paid by the purchaser.

(e) Compensation includes:

(i) All money, real or personal property, food, shelter, or services received by the individual:

(A) At or after the time of transfer in exchange for the resource if the compensation was provided pursuant to a binding (legally enforceable) agreement in effect at the time of transfer, or

(B) (~~Prior to~~) Before the actual transfer if (~~they were~~) compensation was provided pursuant to a binding (legally enforceable) agreement whereby the eligible individual would transfer the resource or otherwise pay for such item.

(ii) The payment or assumption of a legal debt owed by the individual in exchange for the resource.

(~~4~~) (5) WAC 388-28-461, 388-28-462, and 388-28-465 (~~are~~) shall be incorporated by reference and apply to this section, with the exception to the reference (~~therein to~~) described under WAC 388-28-460.

(~~5~~) (6) The voluntary transfer or assignment of resources between spouses is permitted without affecting eligibility or continued eligibility of the spouse (~~who transfers(ed)~~) transferring or (~~assigns(ed)~~) assigning the resources.

(~~6~~) (7) The uncompensated fair market value of the (~~resource~~) assigned or transferred resource and the corresponding ineligibility periods (~~of ineligibility~~) from the date of transfer (~~are~~) shall be as follows:

(a) Dollar Amount of Uncompensated Value	Months of Ineligibility
\$ 0 - \$ 1,000	1
1,001 - 2,000	2
2,001 - 3,000	3
3,001 - 4,000	4
4,001 - 5,000	5
5,001 - 6,000	6
6,001 - 7,000	7
7,001 - 8,000	8
8,001 - 9,000	9
9,001 - 10,000	10
10,001 - 11,000	11
11,001 - 12,000	12
12,001 - 13,500	13
13,501 - 15,000	14
15,001 - 16,500	15
16,501 - 18,000	16
18,001 - 19,500	17
19,501 - 21,000	18
21,001 - 22,500	19
22,501 - 24,000	20
24,001 - 25,500	21
25,501 - 27,000	22
27,001 - 28,500	23
28,501 - 30,000	24
30,001 - 31,667	25
31,668 - 33,333	26
33,334 - 35,000	27
35,001 - 36,667	28
36,668 - 38,333	29
38,334 - 40,000	30
40,001 - 41,667	31
41,668 - 43,333	32
43,334 - 45,000	33
45,001 - 46,667	34
46,668 - 48,333	35
48,334 - 50,000	36
Over \$ 50,000	48

(b) The period of ineligibility shall not include partial months.

(~~7~~) (8) If a transferred resource is returned to the individual, the uncompensated value (~~is~~) shall no longer be counted as of the date of return. The returned asset (~~with~~) shall be treated as a resource as of the first day of the following month.

~~((8))~~ (9) If the individual receives additional compensation in the form of cash for the transferred resource, the uncompensated value ~~((with))~~ shall be reduced by the amount of the additional compensation as of the date the additional compensation is received. The additional compensation ~~((with))~~ shall be treated as a resource as of the first day of the following month.

~~((9))~~ (10) The period of ineligibility may be waived if ~~((it is determined that))~~ the department determines the application of the period of ineligibility shall cause undue hardship.

~~((10))~~ (11) The department determines a person ~~((determined to be))~~ is ineligible for medical care under this section ~~((has))~~ and shall have the right to request a hearing to appeal the determination, except as modified by this section~~(;)~~. The procedure for the hearing is described under chapter 388-08 WAC.

(a) At a hearing, the department shall have the burden of proving ~~((that))~~ the:

(i) Person knowingly and ~~((willfully assigned))~~ willfully assigns or ~~((transferred))~~ transfers cash or other ~~((resource(s))~~ resource at less than fair market value for the purpose of qualifying or continuing to qualify for assistance ~~((is on the department))~~; and ~~((the))~~

(ii) Burden of proof is a preponderance of the evidence.

(b) When the appellant is the prevailing party in the hearing, the appellant shall be awarded reasonable attorney fees.

~~((11))~~ (12) See WAC 388-81-052 for civil penalties ~~((to be applied))~~:

(a) Applying to persons ~~((who have received))~~ receiving nonexempt resources; and ~~((did))~~

(b) Not ~~((give))~~ giving the recipient adequate consideration.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-93-070 TRANSFER OF RESOURCES WITHIN TWO YEARS PRIOR TO APPLICATION.

WSR 89-14-065

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2820—Filed June 30, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to definitions, amending WAC 388-49-020.

I, Leslie F. James, 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 this rule amendment is necessary to

clarify that people receiving disability related medical assistance are to be considered "disabled" for food stamp program purposes in accordance with 7 CFR 271.2. Also, to modify the definitions to conform to the new Administrative Procedure Act. This rule is to be effective July 1, 1989, at 12:01 a.m.

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

This rule is promulgated pursuant to RCW 74.04.510 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 28, 1989.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2770, filed 3/2/89)

WAC 388-49-020 DEFINITIONS. (1) "Administrative disqualification hearing" means a formal hearing to determine whether or not an individual committed an intentional program violation.

(2) "Administrative error overissuance" means any overissuance caused solely by department action or failure to act when the household properly and accurately reported all the household's circumstances to the department.

(3) "Administrative law judge" means an employee of the office of administrative hearings empowered to ~~((conduct contested case hearings))~~ preside over adjudicative proceedings.

(4) "Aid to families with dependent children (AFDC) program" means the federally funded public assistance program for dependent children and their families authorized under Title IV-A of the Social Security Act.

(5) "Allotment" means the total value of coupons a household is certified to receive during a calendar month.

(6) "Application process" means the filing and completion of an application form, interview or interviews, and verification of certain information.

(7) "Authorized representative" means an adult non-household member sufficiently aware of household circumstances designated in writing by the head of the household, spouse, or other responsible household member to act on behalf of the household.

(8) "Beginning months" means the first month the household is eligible for benefits, and the month thereafter. The first beginning month cannot follow a month in which a household was certified eligible to receive benefits.

(9) "Benefit level" means the total value of food stamps a household is entitled to receive based on household income and circumstances.

(10) "Boarder" means an individual residing with the household, except a person described under WAC 388-49-190 (2)(a), (b), (c), or (d), who is:

(a) A person paying reasonable compensation to the household for lodging and meals; or

(b) A foster child.

(11) "Budget month" means the first month of the monthly reporting cycle; the month for which the household reports their circumstances.

(12) "Certification period" means definite period of time within which the household has been determined eligible to receive food stamps.

(13) "Child" means someone under eighteen years of age and under parental control.

(14) "Collateral contact" means contact with someone outside of the household to confirm the household's circumstances.

(15) "Commercial boarding home" means an enterprise offering meals and lodging for compensation with the intent of making a profit.

(16) "Dependent care deduction" means costs incurred by a household member for care provided by a nonhousehold member when the care is necessary for a household member to seek, accept, or continue employment, or attend training or education preparatory to employment.

(17) "Destitute household" means a household with migrant or seasonal workers with little or no income at the time of application in need of immediate food assistance.

(18) "Disabled person" means a person who meets one of the following criteria:

(a) Receives Supplemental Security Income (SSI) under Title XVI of the Social Security Act;

(b) Receives disability or blindness payments under Titles I, II, XIV, or XVI of the Social Security Act;

(c) Is a veteran with service-connected or nonservice-connected disability rated or paid as total under Title 38 of the United States Code (USC), or considered in need of regular aid and attendance, or permanently housebound under such title;

(d) Is a surviving spouse of a veteran and considered in need of aid and attendance, or permanently housebound; or a surviving child of a veteran and considered to be permanently incapable of self-support under Title 38 of the USC;

(e) A surviving spouse or child of a veteran and entitled to compensation for service-connected death or pension benefits for a nonservice-connected death under Title 38 of the USC and has a disability considered permanent under section 221(i) of the Social Security Act;

(f) Receives disability retirement benefits from a federal, state, or local government agency, because of a disability considered permanent under section 221(i) of the Social Security Act; ((or))

(g) Receives an annuity payment as part of the Railroad Retirement Act of 1974 under:

(i) Section 2 (a)(1)(iv) and is determined eligible to receive Medicare by the Railroad Retirement Board; or

(ii) Section 2 (a)(1)(v) and is determined disabled based on the criteria under Title XVI of the Social Security Act; or

(h) Is a recipient of disability-related medical assistance under Title XIX of the Social Security Act.

(19) "Documentary evidence" means written confirmation of a household's circumstances.

(20) "Documentation" means the process of recording the source, date, and content of verifying information.

(21) "Elderly person" means a person sixty years of age or older.

(22) "Eligible food" means, for a homeless food stamp household, meals prepared for and served by an authorized homeless meal provider.

(23) "Entitlement" means the food stamp benefit a household received including a disqualified household member.

(24) "Equity value" means fair market value less encumbrances.

(25) "Expedited services" means quick provision of food stamps within five calendar days to an eligible household which:

(a) Has liquid resources of one hundred dollars or less; and

(b) Has gross monthly income under one hundred fifty dollars; or

(c) Has combined gross income and liquid resources which are less than the household's current monthly rent or mortgage and actual utility costs; or

(d) Includes all members who are homeless individuals; or

(e) Includes destitute migrant or seasonal farm workers.

(26) "Fair hearing" means ((a hearing conducted by the office of administrative hearings at the client's request to decide whether action taken or intended action by the department is correct)) an adjudicative proceeding in which the department hears and decides an applicant/recipient's appeal from the department's action or decision.

(27) "Fair market value" means the value at which a prudent person might sell the property if the person was not forced to sell.

(28) "Food coupon" means food stamps and the two terms are interchangeable.

(29) "Food coupon authorization (FCA) card" means the document issued by the local or state office to authorize the allotment the household is eligible to receive.

(30) "Food stamp monthly reporting cycle" means the budget month, the process month, and the payment month.

(31) "Gross income eligibility standards" means one hundred thirty percent of the federal poverty level for the forty-eight contiguous states.

(32) "Group living arrangement" means a public or private nonprofit residential setting serving no more than sixteen residents certified by the appropriate state agency under section 1616(e) of the Social Security Act.

(33) "Head of household" means:

(a) The person designated by the household to be named on the case file, identification card, and FCA card;

(b) For employment services or the voluntary quit provision, the household member who is the principal wage earner with the greatest source of earned income in the two months prior to the month of violation, including members not required to register, provided:

(i) The employment involves at least twenty hours per week; and

(ii) The person is not living with a parent or a person fulfilling that role who is:

(A) Registered for work,

(B) Exempt from work registration because of registration in a Title IV-A or IV-C work program of the Social Security Act, as amended, or the receipt of unemployment compensation, or

(C) Employed or self-employed and working a minimum of thirty hours per week, or receiving weekly earnings equal to the federal minimum wage multiplied by thirty hours.

(34) "Home visit" means a personal contact at the person's residence by a department employee. The home visit shall be scheduled in advance with the household.

(35) "Homeless food stamp household" means an eligible food stamp household having no fixed mailing address or not residing in a permanent dwelling.

(36) "Homeless meal provider" means a public or private nonprofit establishment (e.g., soup kitchen, temporary shelter, mission, or other charitable organizations) feeding homeless persons, approved by division of income assistance (DIA) and authorized by FNS.

(37) "Household" means the basic client unit in the food stamp program.

(38) "Household disaster" means when food purchased with food stamps are destroyed by a natural disaster, such as flood, fire, etc.

(39) "Identification card" means the document identifying the bearer as eligible to receive and use food stamps.

(40) "Inadvertent household error overissuance" means any overissuance caused by misunderstanding or unintended error on the part of the household.

(41) "Ineligible household member" means the member excluded from the food stamp household because of:

(a) Disqualification for intentional program violation;

(b) Failure to apply for or provide a Social Security number;

(c) Failure to comply with work registration requirements;

(d) Status as an ineligible alien;

(e) Status as an ineligible student; or

(f) Failure to sign the application attesting to the member's citizenship or alien status.

(42) "Institution" means any place of residence (private or public) providing maintenance and meals for two or more persons.

(43) "Institution of higher education" means any institution normally requiring a high school diploma or equivalency certificate for enrollment. This includes any two-year or four-year college. Also included is any course in a trade or vocational school that normally requires a high school diploma or equivalency for admission to the course.

(44) "Intentional program violation," after August 8, 1983, means intentionally:

(a) Making a false or misleading statement;

(b) Misrepresenting, concealing, or withholding facts; or

(c) Committing any act constituting a violation of the Food Stamp Act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or FCAs.

Intentional program violation which ended prior to August 8, 1983, consists of any action by an individual or individuals to knowingly, willfully, and with deceitful intent:

(a) Make a false statement to the department, either orally or in writing, to obtain benefits to which the household is not entitled;

(b) Conceal information to obtain benefits to which the household is not entitled;

(c) Alter authorization cards or coupons to obtain benefits to which the household is not entitled;

(d) Use coupons to buy expensive or conspicuous non-food items;

(e) Use or possess improperly obtained coupons or authorization cards; and

(f) Trade or sell coupons or authorization cards.

(45) "Intentional program violation overissuance" means any overissuance caused by an intentional program violation.

(46) "Live-in attendant" means an individual residing with a household to provide medical, housekeeping, child care, or other similar personal services.

(47) "Lump sum" means money received in the form of a nonrecurring payment including, but not limited to:

(a) Income tax refunds,

(b) Rebates,

(c) Retroactive payments, and

(d) Insurance settlements.

(48) "Mandatory fees" means those fees charged to all students within a certain curriculum. Transportation, supplies, and textbook expenses are not uniformly charged to all students and are not considered as mandatory fees.

(49) "Migrant farmworker" means an individual working in seasonal agricultural employment and who is required to be absent overnight from his or her permanent place of residence.

(50) "Net income eligibility standard" means the federal income poverty level for the forty-eight contiguous states.

(51) "Nonhousehold member" means a person who is not considered a member of the food stamp household such as:

(a) A roomer;

(b) A live-in attendant; or

(c) An individual who does not purchase and prepare meals with the food stamp household.

(52) "Nonstriker" means any person:

(a) Exempt from work registration the day prior to the strike for reasons other than their employment;

(b) Unable to work as a result of other striking employees, e.g., truck driver not working because striking newspaper pressmen not printing output;

(c) Not part of the bargaining unit on strike but not wanting to cross picket line due to fear of personal injury or death; or

(d) *Unable to work because workplace is closed by employer in order to resist demands of employees, e.g., a lockout.*

(53) *"Offset" means reduce restored benefits by any overissue (claim) owed by the household to the department.*

(54) *"Overissuance" means the amount of coupons issued to a household in excess of the amount eligible to receive.*

(55) *"Overpayment" means the same as "overissuance" and shall be the preferred term used in procedures.*

(56) *"Payment month" means the third month of the budget cycle; the month in which the food stamp allotment is affected by information reported on the monthly report for the budget month.*

(57) *"Period of intended use" means the period for which an FCA or food coupon is intended to be used.*

(58) *"Post secondary education" means a school not requiring a high school diploma or equivalency for enrollment. This includes trade school, vocational schools, business colleges, beauty schools, barber schools, etc.*

(59) *"Process month" means the second month of the monthly reporting cycle; the month in which the monthly report is to be returned by the household to the local office.*

(60) *"Project area" means the county or similar political subdivision designated by the state as the administrative unit for program operations.*

(61) *"Prospective budgeting" means the computation of a household's income based on income received or anticipated income the household and department are reasonably certain will be received during the month of issuance.*

(62) *"Prospective eligibility" means the determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.*

(63) *"Quality control review" means a review of a statistically valid sample of cases to determine the accuracy of budgeting, issuance, denial, withdrawal, and termination actions taken by the department.*

(64) *"Quality control review period" means the twelve-month period from October 1 of each calendar year through September 30 of the following calendar year.*

(65) *"Recent work history" means receipt of earned income in one of the two months prior to the payment month.*

(66) *"Recertification" means approval of continuing benefits based on an application submitted prior to the end of the current certification period.*

(67) *"Resident of an institution" means a person who resides in an institution that provides the individual with the majority of meals as part of the institution's normal service.*

(68) *"Retrospective budgeting" means the computation of a household's income for a payment month based on actual income received in the corresponding budget month of the monthly reporting cycle.*

(69) *"Retrospective eligibility" means the determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.*

(70) *"Roomer" means an individual to whom a household furnishes lodging, but not meals, for compensation.*

(71) *"Seasonal farmworker" means an individual working in seasonal agricultural employment who is not required to be absent from his or her permanent place of residence overnight.*

(72) *"Shelter costs" means:*

(a) *Rent or mortgage payments plus taxes on a dwelling and property;*

(b) *Insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated;*

(c) *Assessments;*

(d) *Utility costs such as heat and cooking fuel, cooling and electricity, water, garbage, and sewage disposal;*

(e) *Standard basic telephone allowance;*

(f) *Initial installation fees for utility services; and*

(g) *Continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home including interest on such payments..*

(73) *"Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children.*

(74) *"Sibling" means a natural, adopted, half brother or stepbrother or natural, adopted, half sister or stepsister.*

(75) *"Sponsor" means a person who executed an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's admission into the United States as a permanent resident.*

(76) *"Sponsored alien" means an alien lawfully admitted for permanent residence.*

(77) *"Spouse" means:*

(a) *Married under applicable state law; or*

(b) *Living with another person and holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.*

(78) *"Striker" means any person:*

(a) *Involved in a strike or concerted stoppage of work by employees including stoppage due to expiration of a collective bargaining agreement; or*

(b) *Involved in any concerted slowdown or other concerted interruption of operations by employees.*

(79) *"Student" means any person:*

(a) *Between eighteen and sixty years of age;*

(b) *Physically and mentally fit for employment; and*

(c) *Enrolled at least half time in an institution of higher education.*

(80) *"Systematic alien verification for entitlements (SAVE)" means the immigration and naturalization service (INS) program whereby the department may verify the validity of documents provided by aliens applying for food stamp benefits by obtaining information from a central data file.*

(81) *"Thrifty food plan" means the diet required to feed a family of four as determined by the United States Department of Agriculture. The cost of the diet is the*

basis for all allotments, taking into account the household size adjustments based on a scale.

(82) "Under parental control" means living with the parent or any adult other than the parent. A person is not under parental control when that person is:

(a) Receiving an aid to families with dependent children (AFDC) grant as his or her own payee;

(b) Receiving gross income equal to, or exceeding, the AFDC grant payment standard; or

(c) Married.

(83) "Vehicle" means any device for carrying or conveying persons and objects, including travel by land, water, or air.

(84) "Vendor payment" means money payments not owed or payable directly to a household, but paid to a third party for a household expense, such as:

(a) A payment made in money on behalf of a household whenever another person or organization makes a direct payment to either the household's creditors or a person or organization providing a service to the household; or

(b) Rent or mortgage payments, made to landlords or mortgagees by the department of housing and urban development or by state or local housing authorities.

(85) "Verification" means the use of documentation or third-party information to establish the accuracy of statements on the application. Sources of verification shall be documentary evidence, collateral contacts, or a home visit.

WSR 89-14-066
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2821—Filed June 30, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 388-49-410 Resources—Exempt.
Amd WAC 388-49-430 Resources—Vehicles.

I, Leslie F. James, 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 this rule amendment is necessary to exclude property and vehicles of farmers as resources in accordance with 7 CFR 273.8 to be effective July 1, 1989, at 12:01 a.m.

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

This rule is promulgated pursuant to RCW 74.04.510 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 28, 1989.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2662, filed 8/2/88)

WAC 388-49-410 RESOURCES—EXEMPT. (1) The department shall exempt the following resources:

(a) An occupied home and surrounding property not separated by intervening property owned by others;

(b) An unoccupied home and surrounding property if:

(i) The household intends to return to the home; and

(ii) The house is unoccupied due to:

(A) Employment;

(B) Training for future employment;

(C) Illness; or

(D) Uninhabitability due to casualty or natural disaster.

(c) A piece of land where the household is building or intends to build a permanent home, if the household does not own another home. The land must not be separated by intervening property owned by others;

(d) Personal effects;

(e) Household goods;

(f) One burial plot per household member;

(g) Cash value of:

(i) Life insurance policies; and

(ii) Pension funds.

(h) Vehicles as provided under WAC 388-49-430;

(i) That portion of real or personal property directly related to the maintenance or use of a vehicle excluded under WAC 388-49-430 (1)(a), (b), and (f);

(j) Property annually producing income consistent with its fair market value, even if only used on a seasonal basis;

(k) Rental homes used by household for vacation purposes during the year if the property annually produces income consistent with its fair market value;

(l) Property essential to the employment or self-employment of a household member. Property excluded under this provision because the property is used by a self-employed farmer shall retain its exclusion for one year from the date the household member terminates self-employment from farming;

(m) Resources held separately by nonhousehold members, a person disqualified for noncompliance with work registration requirements, or an ineligible student;

(n) Indian lands:

(i) Held jointly with the tribe; or

(ii) Sold only with the approval of the Bureau of Indian Affairs.

(o) Resources prorated as income for self-employed persons or eligible students. These funds, if commingled in an account with nonexcluded funds, shall retain their exclusion for the period of time they are prorated as income;

(p) Cash value of resources not accessible to the household;

(q) Funds in a trust and the income produced by that trust, to the extent they are not available;

(r) Resources excluded by express provision of federal law from consideration in the food stamp program;

(s) Installment contracts or agreements for the sale of land or other property when it is producing income consistent with its fair market value;

(t) Value of the property sold under an installment contract;

(u) The value of property held for security if the purchase price is consistent with fair market value;

(v) Real or personal property when:

(i) Secured by a lien as a result of obtaining a business loan; and

(ii) The security or lien agreement prohibits the household from selling the asset or assets.

(w) Governmental payments designated for restoration of a home damaged in a disaster. The household must be subject to legal sanction if the funds are not used as intended;

(x) Energy assistance payments or allowances made under federal, state, or local laws; and

(y) Resources of persons residing in shelters for battered women and children if:

(i) The resources are jointly owned with members of the former household; and

(ii) Access to the resources depends on the agreement of the joint owner.

(2) Exempt funds commingled in an account with nonexempt funds shall continue to be exempt for up to six months from the date they are commingled.

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-430 RESOURCES—VEHICLES.

(1) The department shall exclude the entire value of a licensed vehicle if it is:

(a) Used for income-producing purposes over fifty percent of the time it is in use. A vehicle excluded under this provision because the vehicle is used by a self-employed farmer shall retain its exclusion for one year from the date the household member terminates self-employment from farming;

(b) Annually producing income consistent with its fair market value;

(c) Essential to the employment of a household member, ineligible aliens, or disqualified persons whose resources are considered available to the household. This exclusion applies only if the vehicle is necessary for long distance travel other than daily commuting;

(d) Necessary for subsistence hunting or fishing;

(e) Used as the household's home; or

(f) Necessary to transport a physically disabled household member, ineligible aliens, or disqualified persons whose resources are available to the household. The exclusion is limited to one vehicle per physically disabled person.

(2) The department shall exclude the entire value of unlicensed vehicles:

(a) Driven by Indian tribal members on those reservations not requiring vehicle licensing, and

(b) Meeting one of the provisions in subsection (1) of this section.

(3) The department shall continue the exclusions described in subsection (1) and (2) of this section when the vehicle is not in use because of temporary unemployment.

(4) The department shall:

(a) Determine the fair market value of all licensed vehicles not excluded in subsections (1) and (2) of this section. Fair market value will be determined by the value of those vehicles as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies; and

(b) Count the fair market value of each vehicle in excess of four thousand five hundred dollars toward the household's resource maximum.

(5) The department shall determine the equity value of all licensed vehicles except:

(a) Those excluded in subsections (1) and (2) of this section,

(b) One licensed vehicle per household regardless of the use of the vehicle, and

(c) Any other licensed vehicle used for:

(i) Transportation to and from employment,

(ii) Seeking employment, or

(iii) Transportation for training or education which is preparatory to employment.

(6) The department shall count the equity value of licensed and unlicensed vehicles not excluded in subsections (1), (2), and ~~((4))~~ (5) of this section toward the household's maximum allowable resource limit.

(7) The department shall consider only the greater amount as a resource if the vehicle has:

(a) A countable fair market value in excess of four thousand five hundred dollars, and

(b) A countable equity value.

**WSR 89-14-067
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 2822—Filed June 30, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to public assistance households, amending WAC 388-49-070.

I, Leslie F. James, 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 this rule amendment is necessary to prevent the department from requiring a household to file a new application for food stamps if they are denied

or terminated from public assistance provided the information on the public assistance application is sufficient for food stamp program purposes. This rule amendment is in accordance with Section 352 of Public Law 100-435 and is effective July 1, 1989, at 12:01 a.m.

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

This rule is promulgated pursuant to RCW 74.04.510 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 28, 1989.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-070 PUBLIC ASSISTANCE HOUSEHOLDS. ~~((+))~~ When a household files an application requesting public assistance and food stamps, the department shall:

(1) Conduct a single interview at initial application ((for public assistance and food stamps.));

(2) ~~((The department shall))~~ Not delay ~~((the household's))~~ food stamp benefits pending ~~((verification))~~ determination of ~~((the))~~ public assistance eligibility; and

(3) Not require a new food stamp application filing if the department:

(a) Denies the public assistance request; or

(b) Terminates public assistance eligibility during a certification period.

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

WSR 89-14-068

EMERGENCY RULES

DEPARTMENT OF NATURAL RESOURCES

[Order 563—Filed June 30, 1989]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the suspension of outdoor burning rules on lands protected by the Department of Natural Resources in Northeastern Washington.

I, Brian J. Boyle, 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 the seasonal drying conditions in Okanogan, Ferry, Stevens, Pend Oreille, and Spokane counties, and Lincoln County north of Highway 2, have historically resulted in fire conditions which pose a

threat to life and property should a fire start. It is therefore necessary to suspend certain burning privileges in these areas and require a written burning permit for all outdoor burning.

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

This rule is promulgated pursuant to RCW 76.04.015 and 76.04.315 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 30, 1989.

By Brian J. Boyle
Commissioner of Public Lands

NEW SECTION

WAC 332-26-081 **OUTDOOR BURNING RESTRICTIONS.** Effective midnight, Friday, June 30, 1989, through midnight, Thursday, October 12, 1989, privileges to have an outdoor fire without a written burning permit, as allowed by WAC 332-24-211, on lands protected by the Department of Natural Resources in Okanogan, Ferry, Stevens, Pend Oreille, Spokane counties, and Lincoln County north of US Highway 2, are suspended.

WSR 89-14-069

ADOPTED RULES

DEPARTMENT OF FISHERIES

[Order 89-54—Filed June 30, 1989]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules.

This action is taken pursuant to Notice No. WSR 89-11-105 filed with the code reviser on May 24, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 75.07.080 [75.08.070] and 75.08.080 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 27, 1989.

By Bette M. Johnson
for Joseph R. Blum
Director

AMENDATORY SECTION (Amending Order 89-07, filed 2/24/89)

WAC 220-44-050 **COASTAL BOTTOMFISH CATCH LIMITS.** It is unlawful to possess, transport

through the waters of the state, or land in any Washington state port bottomfish taken from Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the species indicated:

(1) Widow rockfish (*Sebastes entomelas*) – ~~((30,000))~~ 10,000 pounds per vessel trip per calendar week, defined as Wednesday through the following Tuesday except that a fisherman having made a 1989 declaration of intent may make one landing of not more than 20,000 pounds biweekly, defined as Wednesday through the second Tuesday following. It is unlawful for any vessel to make more than one landing in excess of 3,000 pounds per calendar week.

(2) Shortbelly rockfish (*Sebastes jordani*) ~~((and idiot rockfish (*Sebastes* spp.)))~~ – no maximum poundage per vessel trip; no minimum size.

(3) Pacific Ocean perch (*Sebastes alutus*) – No restriction on landing up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if Pacific Ocean perch represent 20 percent or less of total weight of fish on board. Under no circumstances may a vessel land more than 5,000 pounds of Pacific Ocean perch in any one vessel trip.

(4) All other species of rockfish (*Sebastes* spp.) – 25,000 pounds of all other species combined per vessel trip per calendar week, defined as Wednesday through the following Tuesday, of which no more than 7,500 pounds may be yellowtail rockfish (*Sebastes flavidus*), except that a fisherman having made a 1989 declaration of intent may make either one landing of no more than 50,000 pounds of all other species combined per vessel trip biweekly, defined as Wednesday through the second Tuesday following, of which no more than 15,000 pounds may be yellowtail rockfish, or two landings of not more than 12,500 pounds of all other species in any one calendar week of which not more than 3,750 pounds in any one landing may be yellowtail rockfish. ~~((All previous declaration forms have expired and it is unlawful for any vessel to make other than one vessel trip per week unless a new declaration form has been completed as provided for in this subsection. The 1989 declaration of intent to make other than one vessel trip per week must be mailed or delivered to the Department of Fisheries, 115 General Administration Building, Olympia, WA 98504, and must be received prior to the beginning of such fishing. The declaration of intent must contain the name and address of the fisherman, the name and registration number of the vessel, the date on which such fishing for other species of rockfish will commence, and must be signed and dated by the fisherman. The fisherman may return to the one vessel trip per calendar week fishing by filing a declaration of intent to stop fishing other than once weekly on other species of rockfish with the department in the above manner. The declaration to stop such fishing for other species of rockfish and begin one vessel trip per calendar week fishing must be received prior to the beginning of the week in which the one vessel trip per calendar week fishing will resume:))~~ It is unlawful for any vessel to make other than one

landing in excess of 3,000 pounds of other rockfish species in any calendar week, if no declaration to land other species of rockfish twice weekly has been made.

~~((The date of first landing will determine the beginning of biweekly periodicity. Biweekly periodicity will restart after a landing that occurs more than four calendar weeks after the immediate prior landing. A calendar week is defined as Wednesday through the following Tuesday:))~~

(5) ~~((Sablefish:))~~ Deepwater Complex – Sablefish, Dover Sole, Arrowtooth Flounder, and Thorneyhead (or Idiot) Rockfish (*Sebastes* spp.) – 30,000 pounds of the deepwater complex per vessel trip per calendar week, defined as Wednesday through the following Tuesday except that a fisherman having made a 1989 declaration of intent, may make either one landing of no more than 60,000 pounds of the deepwater complex per vessel trip biweekly, defined as Wednesday through the second Tuesday following or two landings of not more than 15,000 pounds of the deepwater complex in any one calendar week. It is unlawful for any vessel to make more than one landing in excess of 4,000 pounds of the deepwater complex per calendar week (including no more than 1,000 pounds of sablefish; see below) if no declaration to land the deepwater complex twice weekly has been made.

(a) Sablefish taken from trawl vessels – ((No trip limit:)) No restrictions on landing up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if sablefish represent ~~((45))~~ 25 percent or less of the total combined round weight of ~~((sablefish, dover sole, arrowtooth flounder, and thornyhead rockfish))~~ the deepwater complex on board ~~((t))~~. To convert from round weight to dressed weight multiply the dressed weight by 1.75~~((t))~~. Minimum size 22 inches in length, unless dressed in which case minimum size 15.5 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail. Trawl vessels are allowed an incidental catch less than the minimum size of ~~((45))~~ 1,000 pounds or 25 percent of the total combined round weight ~~((of sablefish, dover sole, arrowtooth flounder and thornyhead rockfish))~~ the deepwater complex, not to exceed 5,000 pounds per trip.

(b) Sablefish taken from nontrawl vessels – No trip limit. Minimum size 22 inches in length, unless dressed, in which case minimum size 15.5 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail. Nontrawl vessels are allowed an incidental catch less than the minimum size of 1,500 pounds, round weight, ~~((or three percent of the total round weight of sablefish on board, whichever is greater,))~~ per trip.

(6) 1989 Declarations of Intent – All previous 1989 declaration forms remain in effect. If no declaration had been made, to make other than one vessel trip per week and land in excess of the minimum amounts as provided for in this section, a new declaration form must be completed as provided for in this subsection. The 1989 declaration of intent to make other than one vessel trip per week must be mailed or delivered to the Department of Fisheries, 115 General Administration Building, Olympia, WA 98504, and must be received prior to the beginning of such fishing. The declaration of intent must

contain the name and address of the fisherman, the name and registration number of the vessel, the date on which such fishing will commence and must be signed and dated by the fisherman. The fisherman may return to the one vessel trip per calendar week fishing by filing a declaration of intent to stop fishing other than once weekly with the department in the above manner. The declaration to stop such fishing and begin one vessel trip per calendar week fishing must be received prior to the beginning of the week in which the one vessel trip per calendar week fishing will resume. The date of first landing will determine the beginning of biweekly periodicity. Biweekly periodicity will restart after a landing that occurs more than four calendar weeks after the immediate prior landing. A calendar week is defined as Wednesday through the following Tuesday.

(7) It is unlawful during unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of bottomfish having a vessel trip limit.

((7)) (8) For purposes of this section, a vessel trip is defined as having occurred upon the initiation of transfer of catch from the fishing vessel, and all fish aboard the vessel are considered part of the vessel trip limit at the initiation of transfer of catch.

WSR 89-14-070
ADOPTED RULES
DEPARTMENT OF LICENSING
 [Order PM 840—Filed June 30, 1989]

I, Mary Faulk, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the regulation of registered counselors:

Amd	WAC 308-190-030	Definitions.
Amd	WAC 308-190-040	Client disclosure information.
New	WAC 308-190-041	Required disclosure information.
New	WAC 308-190-042	Reporting of suspected abuse or neglect of a child, dependent adult, or a developmentally disabled person.

This action is taken pursuant to Notice No. WSR 89-07-081 filed with the code reviser on March 22, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.19.060 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 27, 1989.

By Mary Faulk
 Director

AMENDATORY SECTION (Amending Order PM 728, filed 5/11/88)

WAC 308-190-030 DEFINITIONS. The following terms are defined ~~((with))~~ within the meaning of this chapter.

(1) "Fee" as referred to in RCW 18.19.030 means compensation paid in exchange for counseling service whether or not the fee is paid on a contractual basis through a government agency or another third party, or is charged by a company, corporation, or any other type of firm, business, or individual ~~((provide))~~ provider.

(2) "Similarly regulated" means individuals who are currently registered, certified, or licensed under other laws of this state wherein disciplinary standards defining acts of unprofessional conduct apply to each individual under the regulation.

(3) "Therapeutic techniques" means the method of procedures used when assisting an individual with emotional, ~~((behavior))~~ behavioral, or mental issues.

(4) "Treatment" ~~((shall))~~ means assisting or attempting to assist an individual and does not include the initial assessment/evaluation.

(5) "Counselor trainee" means any individual who is learning to be a counselor through on-the-job training while providing counseling services.

(6) "Student" means any individual enrolled in a college or university who is taking part in a counseling practicum for course credit.

(7) "Counselor intern" means any individual defined as a student.

AMENDATORY SECTION (Amending Order PM 728, filed 5/11/88)

WAC 308-190-040 CLIENT DISCLOSURE INFORMATION. The term "counselor" as used in the wording of these rules includes all counselors, hypnotherapists, marriage and family therapists, mental health counselors, and social workers, whether registered or certified.

Counselors must provide disclosure information to each client in accordance with chapter 18.19 RCW prior to implementation of a treatment plan. The disclosure information must be specific to the type of counseling service offered; in language that can be easily understood by the client; and contain sufficient detail to enable the client to make an informed decision whether or not to accept treatment from the disclosing counselor.

Firms, agencies, or businesses may supply generic information relative to a counselor's disclosure to the client, in a format which does not duplicate disclosure information provided when more than one counselor is involved in treatment.

~~((+))~~ The disclosure information ~~((may))~~ must be printed ~~((on the firm, agency, business, or counselor's letterhead but must include the following information:~~

~~(a) Name of firm, agency, business, or counselor's practice;~~

~~(b) Counselor's business address and telephone number;~~

~~(c) Washington state registration or certification number.~~

~~(d) The counselor's name and type of counseling they provide.~~

~~(e) The methods or techniques the counselor uses.~~

~~(f) The counselor's education, training, and experience.~~

~~(g) Client's cost per each counseling session and the course of treatment where known.~~

~~(h) Signatures are required of both the counselor providing the disclosure information and the client following a statement that the client had been provided a copy of the required disclosure information and the client has read and understands the information provided. The date of signature by each party is to be included at the time of signing.~~

~~(i) Firms, agencies, or businesses may supply generic information relative to a counselor's disclosure to the client, in a format which does not duplicate disclosure information provided when more than one counselor is involved in treatment.~~

~~(2) The following language must appear on every client's disclosure statement:~~

~~"Counselors practicing counseling for a fee must be registered or certified with the department of licensing for the protection of the public health and safety. Registration of an individual with the department does not include a recognition of any practice standards, nor necessarily implies the effectiveness of any treatment."~~

~~(3) The department of licensing brochure published for counseling or hypnotherapy clients must be presented to the client at the same time as the counselor's disclosure information. The brochure is equally a part of the required client disclosure information. One brochure per client is sufficient for firms, agencies, or businesses utilizing more than one counselor as part of the treatment plan)) in a format selected by the counselor. Whatever format is chosen must include all required disclosure information.~~

NEW SECTION

WAC 308-190-041 REQUIRED DISCLOSURE INFORMATION. (1) The following information shall be provided to each counseling client:

(a) Name of firm, agency, business, or counselor's practice.

(b) Counselor's business address and telephone number.

(c) Washington state registration or certification number.

(d) The counselor's name and type of counseling they provide.

(e) The methods or techniques the counselor uses.

(f) The counselor's education, training, and experience.

(g) Client's cost per each counseling session and the course of treatment where known.

(h) The following language must appear on every client's disclosure statement:

"Counselors practicing counseling for a fee must be registered or certified with the department of licensing

for the protection of the public health and safety. Registration of an individual with the department does not include a recognition of any practice standards, nor necessarily implies the effectiveness of any treatment."

(i) Counseling clients are to be informed of the purpose of the counselor credentialing act. The purpose of the law regulating counselors is: (A) To provide protection for public health and safety; and (B) to empower the citizens of the state of Washington by providing a complaint process against those counselors who would commit acts of unprofessional conduct.

(j) Counseling clients are to be informed that they as individuals have the right to choose counselors who best suit their needs and purposes. (This subsection is not intended to provide new rights by superseding those adopted by previous statutes.)

(k) Counseling clients are to be informed of the extent of confidentiality provided by RCW 18.19.180 (1) through (6).

(1) Counseling clients are to be provided a list of or copy of the acts of unprofessional conduct in RCW 18.130.180 with the name, address, and contact telephone within the department of licensing.

(2) Signatures are required of both the counselor providing the disclosure information and the client following a statement that the client had been provided a copy of the required disclosure information and the client has read and understands the information provided. The date of signature by each party is to be included at the time of signing.

(3) The department of licensing publishes a brochure for the education and assistance of the public. The department brochure may be photocopied and provided to each client as an option to satisfy the required disclosure information of subsection (1)(j) through (l) of this section.

NEW SECTION

WAC 308-190-042 REPORTING OF SUSPECTED ABUSE OR NEGLECT OF A CHILD, DEPENDENT ADULT, OR A DEVELOPMENTALLY DISABLED PERSON. As required by chapter 26.44 RCW, all hypnotherapists and counselors, registered or certified, shall report abuse or neglect of a child, dependent adult, or developmentally disabled person when they have reasonable cause to believe that such an incident has occurred.

The report shall be made to the local law enforcement agency or to the department of social and health services at the first opportunity, but no longer than forty-eight hours after there is reasonable cause to believe that the child or adult has suffered abuse or neglect.

WSR 89-14-071

ADOPTED RULES

DEPARTMENT OF LICENSING

[Order PM 841—Filed June 30, 1989]

I, Mary Faulk, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington,

the annexed rules relating to the regulation of certified mental health counselors, WAC 308-210-010, 308-210-030, 308-210-040, 308-210-045, 308-210-046, 308-210-050 and 308-210-060.

This action is taken pursuant to Notice No. WSR 89-07-082 filed with the code reviser on March 22, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.19.120 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 29, 1989.

By Mary Faulk
Director

AMENDATORY SECTION (Amending Order PM 730, filed 5/11/88)

WAC 308-210-010 DEFINITIONS. (1) "Wellness model" is defined as focusing on a client's inherent strengths rather than pathology or restrictions on the clientele to be treated. "Wellness model" is an attitudinal rather than methodological intention.

(2) "Postgraduate supervision" is defined as consisting of a total of one hundred documented hours of individual face-to-face case consultation with an approved supervisor, with no more than six hours per month to be allowed to accrue toward the total.

(3) "Postgraduate professional experience" is defined as consisting of face-to-face counseling service with an individual or with a group of individuals for at least fifty percent of counseling service hours per week for a full-time or part-time employee. The total number of ((supervised)) counseling hours is two thousand or more documented hours accumulated over a minimum of twenty-four months but not more than forty-eight months.

(4) "Counseling practicum" is defined as mental health counseling that is supervised as a part of a course.

(5) "Counseling internship" is defined as supervised mental health counseling performed through counseling field placement.

(6) "Approved supervisor" shall include a certified mental health counselor, licensed psychologist, licensed psychiatrist, or other mental health care provider who meets or exceeds the requirements of certified mental health counselor; provided, the supervisor is not a blood or legal relative or cohabitant of the supervisee.

(7) "Related field" is defined as counseling, psychology, social work, nursing, education, or social sciences.

AMENDATORY SECTION (Amending Order PM 730, filed 5/11/88)

WAC 308-210-030 EXAMINATION WAIVER ELIGIBILITY. In order to apply for certification without examination, an applicant must have submitted a

written intent to become certified or have become registered by July 26, 1988. All education, experience, and supervision requirements must have been met by July 26, 1988.

(1) Graduate degree applicants.

(a) Graduate degree applicants must have a master's or doctoral degree in mental health counseling or in psychology, social work, nursing, education, or social sciences which includes the substantial equivalent in subject content to a graduate mental health counseling degree as defined in WAC 308-210-050; and

(b) Postgraduate professional experience and postgraduate supervision.

(2) Alternative training and experience equivalent applicants.

(a) Alternative training and experience equivalent applicants must have a minimum of a bachelor's degree in counseling, psychology, social work, nursing, education, or social sciences from a regionally accredited institution; and

(b) At least five years of documented experience employed in a mental health setting with two thousand hours of supervised face-to-face counseling; or

(c) A combination of supervised and unsupervised face-to-face counseling where two and one-half hours without supervision may be considered as replacement for one hour with supervision.

(3) Persons applying for certification as a mental health counselor during the initial certification period shall meet the requirement for supervised practice or shall be required to pass the certification examination.

AMENDATORY SECTION (Amending Order PM 730, filed 5/11/88)

WAC 308-210-040 EXAMINATION FOR CERTIFIED MENTAL HEALTH COUNSELORS. (1) A written, multiple-choice certification examination on knowledge and application of mental health counseling will be administered at least once a year. Applications must be submitted at least ninety days prior to the examination date.

(2) Applicants who successfully complete and pass the National Board of Certified Counselors (NBCC) certification examination have met the examination requirement of RCW 18.19.120. Verification of successful completion and passage of the NBCC certification examination is to be provided directly to the department of licensing by the NBCC at the request of the applicant for Washington state certified mental health counselor.

(3) Applicants who successfully complete and pass the National Academy of Certified Clinical Mental Health Counselors (NACCMHC) certification examination have met the examination requirement of RCW 18.19.120. Verification of successful completion and passage of the NACCMHC certification examination is to be provided directly to the department of licensing by the NACCMHC at the request of the applicant for Washington state certified mental health counselor.

NEW SECTION

WAC 308-210-045 MENTAL HEALTH COUNSELORS—PROFESSIONAL EXPERIENCE REQUIREMENT PRIOR TO EXAMINATION FOR CERTIFICATION. (1) To meet the postgraduate professional experience and supervision requirements provided in RCW 18.19.120(1) an applicant with a master's or doctoral degree in mental health counseling or related field from a regionally accredited college or university must have accumulated:

(a) Twenty-four months of postgraduate professional experience as defined in WAC 308-210-010(3); and

(b) Postgraduate supervision as defined in WAC 308-210-010(2).

(2) To meet the postgraduate professional experience and supervision requirements provided in RCW 18.19.120(1) an applicant who has successfully completed at least thirty graduate semester hours or forty-five graduate quarter hours in the field of mental health counseling or the substantial equivalent in subject content as described in WAC 308-210-050(2) must have accumulated:

(a) Twenty-four months of professional experience as described in WAC 308-210-010(3), accumulated after obtaining a bachelor's degree and the required graduate hours; and

(b) Supervision as defined in WAC 308-210-010(2) which has been provided after obtaining a bachelor's degree and the required graduate hours.

NEW SECTION

WAC 308-210-046 APPLICANTS WITH GRADUATE DEGREE BY JANUARY 26, 1989. Applicants who have completed a master's or doctoral degree program in mental health counseling or a related field from a regionally accredited college or university by January 26, 1989, may qualify for examination without the postgraduate professional experience or postgraduate supervision required by WAC 308-210-045.

AMENDATORY SECTION (Amending Order PM 730, filed 5/11/88)

WAC 308-210-050 MENTAL HEALTH COUNSELORS—EDUCATION REQUIREMENT PRIOR TO EXAMINATION FOR CERTIFICATION. (1) To meet the education requirement imposed by RCW 18.19.120, an applicant must possess:

(a) A master's or doctoral degree in mental health counseling or related field from a regionally accredited college or university; or

(b) ~~((A bachelor's degree and successful completion of))~~ Have successfully completed at least thirty graduate semester hours or forty-five graduate quarter hours in the field of mental health counseling or the substantial equivalent in subject content.

(2) Subject content includes a core of study relating to counseling theories, counseling philosophy, counseling practicum, counseling internship, and should incorporate content in professional ethics and law and shall include

at least five content areas (a) through (h) of this subsection and at least two additional content areas from the entire list:

- (a) Assessment/diagnosis.
- (b) Career development counseling.
- (c) Counseling individuals.
- (d) Counseling groups.
- (e) Counseling couples and families.
- (f) Developmental psychology (may be child, adolescent, adult or life span).
- (g) Abnormal psychology/psychopathology.
- (h) Research and evaluation.
- (i) Multicultural concerns.
- (j) Substance/chemical abuse.
- (k) Physiological psychology.
- (l) Organizational psychology.
- (m) Mental health consultation.
- (n) Developmentally disabled persons.
- (o) Abusive relationships.
- (p) Chronically mentally ill.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-210-060 NATIONAL CERTIFICATION EQUIVALENT TO WASHINGTON STATE CERTIFICATION.

WSR 89-14-072**EMERGENCY RULES****DEPARTMENT OF NATURAL RESOURCES**

[Order 562—Filed June 30, 1989]

I, James A. Stearns, director of the Department of Natural Resources, do promulgate and adopt at Olympia, Washington, the annexed rules relating to establishing eligibility and petitioning criteria for enterprises to purchase state timber set aside by counties intended for Washington state processors.

I, James A. Stearns, 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 chapter 424, Laws of 1989, was signed into law with an emergency implementation date of July 1, 1989. Therefore, these rules are also necessary by July 1, 1989, to make the law effective.

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

This rule is promulgated pursuant to section 2, chapter 424, Laws of 1989 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 30, 1989.

By James A. Stearns
Supervisor

NEW SECTION

WAC 332-140-400. ELIGIBLE ENTERPRISE PETITION REQUIREMENTS TO PURCHASE SET ASIDE TIMBER. A business concern and its affiliates, as defined in 13 C.F.R. 121.3, in effect January 1, 1988, (enterprise) which operates in the state of Washington one or more facilities manufacturing lumber, plywood, veneer, posts, poles, pilings, shakes, or shingles must petition the department to become eligible to purchase timber reserved under chapter 424, Laws of 1989. The values on the petition must be certified by a certified public accountant in Washington state. The petition must be sent or delivered to the Timber Sales Division, Department of Natural Resources, Olympia, Washington 98504. The values required are:

(1) Total timber volume, converted to Scribner decimal C (Scribner) log scale, purchased by the enterprise in each of the previous three years.

(2) Scribner timber volume purchased by the enterprise from state and federally owned sources in each of the previous three years.

(3) Total Scribner volume purchased by the enterprise processed as defined by chapter 424, Laws of 1989 in the state of Washington in the previous year.

(4) Names and addresses of manufacturing facilities in Washington owned and/or affiliated with the enterprise.

The department will review the petition and supporting documents and determine if the petitioner is eligible under chapter 424, Laws of 1989 and if so add that enterprise to the eligibility list maintained in the Timber Sales Division, Department of Natural Resources, Olympia, Washington 98504, for sales reserved under chapter 424, Laws of 1989. The petitioner will remain on the list for one year from the date of petition. The enterprise may reestablish themselves on the list by petitioning again under this section.

WSR 89-14-073

RULES COORDINATOR

HUMAN RIGHTS COMMISSION

[Filed June 30, 1989]

In accordance with RCW 34.05.310(3), the Human Rights Commission designates Sherri Apilado, Commission Clerk, as its rules coordinator. The office and mailing address of the rules coordinator is 402 Evergreen Plaza Building, Seventh and Capitol Way, Olympia, WA 98504.

Alan Momohara
Executive Secretary

WSR 89-14-074

ATTORNEY GENERAL OPINION

Cite as: AGO 1989 No. 12

[June 27, 1989]

APPRENTICESHIPS—STATE APPRENTICESHIP COUNCIL—DEPARTMENT OF LABOR AND INDUSTRIES—ADMINISTRATIVE PROCEDURES ACT

1. The State Apprenticeship Council is an "agency" within the meaning of chapter 34.04 RCW and chapter 34.05 RCW, the old and new Administrative Procedures Acts.
2. The State Apprenticeship Council is required to promulgate its standards for approving apprenticeship agreements as rules under the Administrative Procedures Act.
3. Disapproval by the State Apprenticeship Council of an apprenticeship agreement would not ordinarily give rise to a "contested case" or "adjudicative proceedings" under the Administrative Procedures Act, but might do so in some cases depending on the facts.

Requested by:

The Honorable James E. West
State Senator, 6th District
P.O. Box 2792
Spokane, WA 99220-0792

WSR 89-14-075

NOTICE OF PUBLIC MEETINGS

BOARD FOR VOCATIONAL EDUCATION

[Memorandum—June 29, 1989]

The Washington State Board for Vocational Education's work study session and meeting, previously scheduled for July 12-13, 1989, is canceled.

The Washington State Board for Vocational Education has rescheduled its July 12-13 work study session and board meeting for August 29-30, 1989. The state board will hold a work study session on August 29 and board meeting on August 30. Both meetings will start at 8:30 a.m. in the Sunshine Room of the Resource Center at Clover Park Vocational-Technical Institute, 4500 Steilacoom Boulevard S.W., Tacoma.

People needing special accommodations, please call Patsi Justice at (206) 753-5660 or 234-5660 scan.

WSR 89-14-076

RULES COORDINATOR

OFFICE OF MINORITY

AND WOMEN'S BUSINESS ENTERPRISES

[Memorandum—June 28, 1989]

In accordance with RCW 34.05.310(3), the Office of Minority and Women's Business Enterprises designates Tammi Hazlitt as its rules coordinator. The office and

mailing address of the rules coordinator is 406 South Water Street, Olympia, WA 98504.

Milly LaPalm
Acting Director

WSR 89-14-077
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)

[Filed June 30, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning:

Amd WAC 248-19-220 Definitions.
New WAC 248-19-231 Applicability of chapter 248-19 WAC.
Rep WAC 248-19-230 Applicability of chapter 248-19 WAC;

that the agency will at 10:00 a.m., Tuesday, August 8, 1989, in the Auditorium, OB-2, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 9, 1989.

The authority under which these rules are proposed is chapter 9, Laws of 1989 1st ex. sess.

The specific statute these rules are intended to implement is chapter 9, Laws of 1989 1st ex. sess.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1989.

Correspondence concerning this notice and proposed rules shown below should be addressed to:

Troyce Warner
Office of Issuances
Department of Social and Health Services
Mailstop OB-33H
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 25, 1989. The meeting site is in a location which is barrier free.

Dated: June 30, 1989

By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045, or its successor.

Re: Amending WAC 248-19-220; repealing WAC 248-19-230; and new WAC 248-19-231.

Purpose of the Rule and Rule Changes: To implement the ESB 6152 and SHB 1392 revisions in the types of health care facilities and tertiary services subject to certificate of need review, and to delete or amend definitions related to those revisions.

Reason These Rules are Necessary: To implement ESB 6152 and SHB 1392.

Statutory Authority: RCW 70.38.115 and 70.38.135.

Summary of the Rule Changes: Eliminates new institutional health services and major medical equipment from certificate of need review, limits coverage of capital expenditures exceeding the expenditure minimum and substantial changes in services to nursing homes, and establishes coverage of specific tertiary services. Changes and eliminates some definitions.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Frank Chestnut, Director, Certificate of Need Program, 753-5854, OB-43E.

This rule is not necessary as a result of federal law, federal court decision, or state action decision.

AMENDATORY SECTION (Amending Order 2639, filed 7/11/88)

WAC 248-19-220 DEFINITIONS. For the purposes of chapter 248-19 WAC, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise.

(1) "Acute care facilities" means hospitals and ambulatory surgical facilities.

(2) (~~"Advisory review agencies"~~) means the appropriate regional health council and, in the case of hospital projects, the hospital commission.

(~~3~~) "Affected persons" means:

(a) The applicant;

(b) (~~The regional health council for the health service area where the proposed project is to be located;~~

~~(c) Regional health councils serving contiguous health service areas;~~

(~~d~~) Health care facilities and health maintenance organizations providing services similar to the services under review and located in the health service area;

(~~e~~) (c) Third-party payers reimbursing health care facilities in the health service area;

(~~f~~) (d) Any agency establishing rates for health care facilities and health maintenance organizations in the health service area where the proposed project is to be located;

(~~g~~) (e) Health care facilities and health maintenance organizations which (~~have~~), in the twelve months prior to receipt of the application, have submitted a letter of intent to provide similar services;

(~~h~~) (f) Any person residing within the geographic area to be served by the applicant; and

(~~i~~) (g) Any person regularly using health care facilities within the geographic area to be served by the applicant.

(3) "Alterations," see "Construction, renovation, or alteration."

(4) "Ambulatory care facility" means any place, building, institution, or distinct part thereof not a health care facility as defined in this section and operated for the purpose of providing health services to individuals without providing such services with board and room on a continuous twenty-four-hour basis. The term "ambulatory care facility" includes the offices of private physicians, whether for individual or group practice.

(5) "Ambulatory surgical facility" means a facility, not a part of a hospital, providing surgical treatment to patients not requiring inpatient care in a hospital. This term does not include a facility in the offices of private physicians or dentists, whether for individual or group practice, if the privilege of using such facility is not extended to physicians or dentists outside the individual or group practice.

(6) "Applicant," except as used in WAC 248-19-390, means any person proposing to engage in any undertaking subject to review under the provisions of chapter 70.38 RCW.

"Applicant," as used in WAC 248-19-390, means any person or individual with a ten percent or greater financial interest in a partnership or corporation or other comparable legal entity engaging in any undertaking subject to review under the provisions of chapter 70.38 RCW.

(7) "Capital expenditure" means an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by a nursing home facility as its own contractor), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. The costs of any studies, surveys, designs, plans, working drawings, specifications, and other activities (including staff effort, consulting and other services which,

under generally accepted accounting principles, are not properly chargeable as an expense of operation and maintenance) shall be considered capital expenditures. Where a person makes an acquisition under lease or comparable arrangement, or through donation, which would have required certificate of need review if the acquisition had been made by purchase, such acquisition shall be deemed a capital expenditure. Capital expenditures include donations of equipment or facilities to a ((health care)) nursing home facility, which if acquired directly by such facility, would be subject to review under the provisions of this chapter and transfer of equipment or facilities for less than fair market value if a transfer of the equipment or facilities at fair market value would be subject to such review.

(8) "Certificate of need" means a written authorization by the secretary's designee for a person to implement a proposal for one or more undertakings.

(9) "Certificate of need program" means that organizational program of the department responsible for the management of the certificate of need program.

(10) "Commencement of the project" means whichever of the following occurs first: In the case of a construction project, giving notice to proceed with construction to a contractor for a construction project; beginning site preparation or development; excavating or starting the foundation for a construction project; or beginning alterations, modification, improvement, extension, or expansion of an existing building. In the case of major medical equipment, installation. In the case of other projects, initiating a ((new institutional)) health service.

(11) "Construction, renovation, or alteration" means the erection, building, ((alteration,)) remodeling, modernization, improvement, extension, or expansion of a physical plant of a health care facility, or the conversion of a building or portion thereof to a health care facility.

(12) ((("Council" means the state health coordinating council established under the provisions of chapter 70.38 RCW and federal law)) "Continuing care contract" means a contract providing a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services. The contract is conditioned on the transfer of property, the payment of an entrance fee to the provider of such services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

(13) "Continuing care retirement community" means an entity providing shelter and services under a continuing care contract with the entity's members and sponsoring or including a health care facility or a health service.

(14) "Days" means calendar days. Days are counted starting the day after the date of the event from which the designated period of time begins to run. If the last day of the period falls on a Saturday, Sunday, or legal holiday observed by the state of Washington, a designated period ((shall)) runs until the end of the first working day following the Saturday, Sunday, or legal holiday.

"Working days" exclude ((all)) Saturdays, Sundays, and legal holidays observed by the state of Washington. Working days are counted in the same way as calendar days.

((+4)) (15) "Department" means the Washington state department of ((social and)) health ((services)).

((+5)) (16) "Ex parte contact" means any oral or written communication between any person in the certificate of need program or any other person involved in the decision regarding an application for, or the withdrawal of, a certificate of need and the applicant for, or holder of, a certificate of need, any person acting on behalf of the applicant or holder, or any person with an interest regarding issuance or withdrawal of a certificate of need.

((+6)) (17) "Expenditure minimum" means one million dollars for the twelve-month period beginning with July 24, 1983, adjusted annually by the department according to the provisions of chapter 248-156 WAC.

((+7)) (18) "Health care facility" means hospitals, psychiatric hospitals, ((tuberculosis hospitals,)) nursing homes, ((both skilled nursing facilities and intermediate care facilities,)) kidney disease treatment centers including freestanding dialysis units, ambulatory surgical facilities, ((rehabilitation facilities)) continuing care retirement communities, hospices and home health agencies, and includes such facilities when owned and operated by ((the state or)) a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations, but does not include Christian Science sanatoriums operated or listed and certified by

the First Church of Christ Scientist, Boston, Massachusetts. In addition, the term "health care facility" does not include any nonprofit hospital:

- (a) Operated exclusively to provide health care services for children;
- (b) Which does not charge fees for such services; and
- (c) ((Whose rate reviews are waived by the state hospital commission; and

((d)) If not contrary to federal law as necessary to the receipt of federal funds by the state.

(d) In addition, the term "health care facility" does not include a continuing care retirement community which:

(i) Offers services only to contractual members;

(ii) Provides its members a contractually guaranteed range of services from independent living through skilled nursing, including some form of assistance with activities of daily living;

(iii) Contractually assumes responsibility for costs of services exceeding the member's financial responsibility as stated in contract, so that, with the exception of insurance purchased by the retirement community or its members, no third party, including the Medicaid program, is liable for costs of care even if the member depletes personal resources;

(iv) Offers continuing care contracts and operates a nursing home continuously since January 1, 1988, or obtained a certificate of need to establish a nursing home;

(v) Maintains a binding agreement with the department of social and health services assuring financial liability for services to members, including nursing home services, shall not fall upon the department of social and health services;

(vi) Does not operate, and has not undertaken, a project resulting in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and

(vii) Has undertaken no increase in the total number of nursing home beds after January 1, 1988, unless a professional review of pricing and long-term solvency was obtained by the retirement community within the prior five years and fully disclosed to members.

((+8)) (19) "Health maintenance organization" means a public or private organization, organized under the laws of the state, which:

(a) Is a qualified health maintenance organization under Title XIII, Section 1310(d) of the Public Health Service Act; or

(b)(i) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out-of-area coverage;

(ii) Is compensated (except for copayments) for the provision of the basic health care services listed in subsection ((+1)) (19)(b)(i) of this section to enrolled participants by a payment ((which is paid)) made on a periodic basis without regard to the date the health care services are provided and ((which is)) fixed without regard to the frequency, extent, or kind of health service actually provided; and

(iii) Provides physicians' services primarily:

(A) Directly through physicians who are either employees or partners of such organization, or

(B) Through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

((+9)) (20) "Health service area" means a geographic region appropriate for effective health planning including a broad range of health services ((and a population of at least four hundred fifty thousand persons and is the basic subdivision for regional health councils)).

((+10)) (21) "Health services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services and includes alcoholism, drug abuse, and mental health services.

((+11)) (22) "Home health agency" means an entity which is, or is to be, certified as a provider of home health services in the Medicaid or Medicare program. The department shall not require a home health agency ((;)) previously issued a certificate of need as a new health care facility ((; is not required)) to obtain additional certificate of need approval if the agency has not received Medicare or Medicaid certification ((has not been received)) by ((XXXX)) August 10, 1988.

((+12)) (23) "Hospice" means an entity which is, or is to be, certified as a provider of hospice services in the Medicaid or Medicare program. The department shall not require a hospice ((;)) previously issued a certificate of need as a new health care facility ((; is not required)) to obtain additional certificate of need approval if the hospice has not received Medicare or Medicaid certification ((has not been received)) by ((XXXX)) August 10, 1988.

~~((23))~~ (24) "Hospital" means any institution, place, building or agency or distinct part thereof which qualifies or is required to qualify for a license under chapter 70.41 RCW, or ~~(any state-owned and operated institution primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment and care of injured, disabled, or sick persons, or rehabilitation services of injured, disabled, or sick persons. Such term includes tuberculosis hospitals but does not include) as a psychiatric hospital(s).~~

~~(24)~~ "Hospital commission" means the Washington state hospital commission established pursuant to chapter 70.39) licensed under 71-12 RCW.

(25) "Inpatient" means a person receiving health care services with board and room in a health care facility on a continuous twenty-four-hour-a-day basis.

(26) ~~((4)~~ "Institutional health services" means health services provided in or through health care facilities and entailing "annual operating costs" of at least five hundred thousand dollars for the twelve-month period beginning with July 24, 1983, and adjusted annually by the department according to the provisions of chapter 248-156 WAC; the "annual operating costs" are to include all additional costs that will be incurred as a result of the initiation of the service. This would include all direct costs and any incremental increases in ancillary and support services.

~~(27))~~ "Intermediate care facility" means any institution or distinct part thereof certified as an intermediate care facility for participation in the Medicaid (Title XIX of the Social Security Act) program.

~~((28))~~ (27) "Kidney disease treatment center" means any place, institution, building or agency or a distinct part thereof equipped and operated to provide services, including dialysis and/or kidney transplantation, to persons who have end-stage renal disease.

~~((29)~~ "Major medical equipment" means a single unit of medical equipment or a single system of components used for the provision of medical and other health services and which costs in excess of one million dollars, adjusted by the department according to the provisions of chapter 248-156 WAC. Such term does not include dental equipment or medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital, and the clinical laboratory has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of section 1861(s) of such act. If the equipment is acquired for less than fair market value, the term "cost" includes the fair market value.

~~(30))~~ (28) "May" means an act is permitted, but not required.

~~((31))~~ (29) "Nursing home" means any home, place, institution, building or agency or distinct part thereof including a nursing unit or a long-term care area of a hospital operating or maintaining facilities providing convalescent or chronic care, or both, for a period in excess of twenty-four consecutive hours for three or more patients not related by blood or marriage to the operator, who, by reason of illness or infirmity, are unable properly to care for themselves. Convalescent and chronic care may include, but not be limited to, any or all procedures commonly employed in waiting on the sick, such as administration of medicines, preparation of special diets, giving of bedside nursing care, application of dressings and bandages, and carrying out of treatment prescribed by a duly licensed practitioner of the healing arts. Nursing home includes any such entity ~~((owned and operated by the state or)) licensed or required to be licensed under the provisions of chapter 18-51 RCW and any other intermediate care facility or skilled nursing facility as these terms are defined in this section. ((Nursing home does not include: General hospitals or other places providing care and treatment for the acutely ill and maintaining and operating facilities for major surgery or obstetrics or both; psychiatric hospitals as defined in this section; private establishments, other than private psychiatric hospitals, licensed or required to be licensed under the provisions of chapter 71.12 RCW; boarding homes licensed under the provisions of chapter 18.20 RCW; or any place or institution operated to provide only board, room, and laundry to persons not in need of medical or nursing treatment or supervision:))~~

~~((32))~~ (30) "Obligation," when used in relation to a capital expenditure, means the following has been incurred by or on behalf of a health care facility:

(a) An enforceable contract has been entered into by a health care facility or by a person on behalf of the health care facility for the construction, acquisition, lease, or financing of a capital asset; or

(b) A formal internal commitment of funds by a health care facility for a force account expenditure constituting a capital expenditure; or

(c) In the case of donated property, the date on which the gift is completed in accordance with state law.

~~((33))~~ (31) "Offer," when used in connection with health services, means the health facility provides ~~((or holds itself out as capable of providing or as having the means for the provision of)) one or more specific health services.~~

~~((34))~~ (32) "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district.

~~((35))~~ (33) "Predevelopment expenditures" means capital expenditures, the total of which exceeds the expenditure minimum, made for architectural designs, plans, drawings, or specifications in preparation for the acquisition or construction of physical plant facilities. "Predevelopment expenditures" exclude any obligation of a capital expenditure for the acquisition or construction of physical plant facilities and any activity which the department may ~~((be considered)) consider the "commencement of the project" as this term is defined in this section.~~

~~((36))~~ (34) "Professional review of continuing care retirement community pricing and long-term solvency" means a statement, supported by professional analysis and documentation, attesting to the feasibility of the continuing care retirement community, over a period of ten years or more into the future, and personally prepared by a qualified actuary, defined under WAC 284-05-060, or an independent certified public accountant, using sound financial and actuarial standards and practices. The person preparing the statement shall provide an affidavit stating the person's qualifications to assess the current and future financial and actuarial positions of the continuing care retirement community, including familiarity with current accounting and actuarial professional standards for work concerning continuing care retirement communities.

(35) "Project" means all undertakings proposed in a single certificate of need application or for which a single certificate of need is issued.

~~((37)~~ "Psychiatric hospital" means any institution or distinct part thereof primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons and licensed or required to be licensed under the provisions of chapter 71.12 RCW, or is owned and operated by the state or by a political subdivision or instrumentality of the state.

(38) "Regional health council" means a public or private nonprofit corporation organized in a manner consistent with the laws of the state and capable of performing each of the functions described in RCW 70.38.085. This term includes health systems agencies.

(39) "Regional health plan" means a document providing at least a statement of health goals and priorities for the health service area. In addition, the plan sets forth the number, type, and distribution of health facilities, services, and manpower needed within the health service area to meet the goals of the plan. The regional health plan is produced by the regional health council.

(40) "Rehabilitation facility" means an inpatient facility operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other health services provided under competent professional supervision.

~~(41))~~ (36) "Secretary" means the secretary of the Washington state department of ~~((social and)) health ((services)) or ((his or her)) the secretary's designee.~~

~~((42))~~ (37) "Shall" means compliance is mandatory.

~~((43))~~ (38) "Skilled nursing facility" means any institution or distinct part thereof certified as a skilled nursing facility for participation in the Medicare (Title XVIII) or Medicaid (Title XIX) program.

~~((44))~~ (39) "State health plan" means a document developed ~~((by the department and the council)) in accordance with RCW 70.38.065 and in effect until June 30, 1990, unless superseded by department-adopted rules.~~

~~((1b-(45)))~~ (40) "State Health Planning and Resources Development Act" means chapter 70.38 RCW.

~~((46))~~ (41) "Tertiary health service" means a specialized service meeting complicated medical needs of people and requires sufficient patient volume to optimize provider effectiveness, quality of service, and improved outcomes of care.

(42) "Undertaking" means any action subject to the provisions of chapter 248-19 WAC.

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

NEW SECTION

WAC 248-19-231 APPLICABILITY OF CHAPTER 248-19 WAC. (1) The following undertakings shall be subject to the provisions of chapter 248-19 WAC, with the exceptions provided for in this section.

(a) The construction, development, or other establishment of a new health care facility:

(i) No new health care facility may be initiated as a health service of an existing health care facility without certificate of need approval as a new health care facility;

(ii) The extension, on a regular and ongoing basis, of the services of a home health agency or a hospice in a county not previously regularly included in the service are of that home health agency or hospice during the preceding twelve months shall be considered the development of a new home health agency or hospice.

(b) The sale, purchase, or lease of part or all of any existing hospital licensed under chapter 70.41 RCW or a psychiatric hospital licensed under chapter 71.12 RCW;

(c) A change in bed capacity of a health care facility increasing the total number of licensed beds or redistributing beds among acute care, skilled nursing, intermediate care, and boarding home care if the bed redistribution is effective for a period in excess of six months;

(d) Any new tertiary health services offered in or through a health care facility, and not offered on a regular basis by, in, or through such health care facility within the twelve-month period prior to the time the facility will offer such services:

(i) Tertiary services include the following:

(A) Specialty burn services;

(B) Intermediate care nursery, consistent with chapter 248-18 WAC;

(C) Neonatal intensive care nursery, consistent with chapter 248-19 WAC;

(D) Obstetric services level II. A level II service provides a full range of maternal and neonatal services for uncomplicated patients. Level II units will also provide a full range of services for the majority of complicated obstetrical problems and certain neonatal illnesses. Level II units will have a highly trained multidisciplinary staff;

(E) Obstetric services level III. Level III services are provided to the few women and infants requiring full intensive care services for the most serious type of maternal-fetal and neonatal illnesses and abnormalities. Such a service provides the coordination of care, communications, transfer, and transportation for a given region. Level III services provide leadership in preparatory and continuing education in prenatal and perinatal care and may be involved in clinical and basic research;

(F) Transplantation of specific solid organs, including, but not limited to, heart, liver, pancreas, lung, and kidney. A transplantation service for each solid organ is considered a separate tertiary service;

(G) Open heart surgery;

(H) Pediatric open heart surgery;

(I) Coronary artery bypass surgery;

(J) Vascular surgical procedures. Resection and graft of abdominal aortic aneurysm, surgical correction of patent ductus, carotid artery bypass surgery. Each vascular surgical procedure is considered a separate tertiary service;

(K) Extracorporeal shock wave biliary lithotripsy;

(L) Extracorporeal shock wave renal lithotripsy;

(M) Radiation therapy;

(N) Cardiac catheterization;

(O) Percutaneous transluminal coronary angioplasty (PTCA);

(P) Rehabilitation services level III. Level III rehabilitation services are services for persons with usually nonreversible, multiple function impairments of a moderate-to-severe complexity resulting in major changes in the patient's lifestyle and requiring intervention by several rehabilitation disciplines. Services are provided by a multidisciplinary team, including a rehabilitation nurse; and physical, occupational, and speech therapists; and vocational counseling; and managed by a physiatrist. The service is provided in a dedicated unit with a separate nurses station staffed by nurses with specialized training and/or experience in rehabilitation nursing. While the service may specialize (i.e., spinal cord injury, severe head trauma, etc.), the service is able to treat all persons within the designated diagnostic specialization regardless of the level of severity or complexity of the impairments;

(Q) Specialized inpatient pediatric services. The services are for complex pediatric cases requiring specialized equipment, as well as specialty and subspecialty personnel. The services are provided in dedicated pediatric units;

(R) Interventional neuroradiology;

(S) Monoclonal antibody therapy;

(T) Laser angioplasty;

(U) Resection of brain tumor and

(V) Positron emission tomography (PET).

(ii) The department shall review, periodically revise, and update the list of tertiary services. The department shall change the tertiary services list through the adoption rules process and may change the list on an emergency basis;

(iii) The offering of an inpatient tertiary health service by a health maintenance organization or combination of health maintenance organizations is subject to the provisions under chapter 248-19 WAC unless the offering is exempt under the provisions of RCW 70.38.111.

(e) Any increase in the number of dialysis stations in a kidney disease center;

(f) Any capital expenditure in excess of the expenditure minimum for the construction, renovation, or alteration of a nursing home. However, a capital expenditure, solely for any one or more of the following, which does not substantially affect patient charges, is not subject to certificate of need review:

(i) Communications and parking facilities;

(ii) Mechanical, electrical, ventilation, heating, and air conditioning systems;

(iii) Energy conservation systems;

(iv) Repairs to, or the correction of, deficiencies in existing physical plant facilities necessary to maintain state licensure;

(v) Acquisition of equipment, including data processing equipment, not for use in the direct provision of health services;

(vi) Construction, involving physical plant facilities, including administrative and support facilities, not for use in the provision of health services;

(vii) Acquisition of land; and

(viii) Refinancing of existing debt.

(g) Any expenditure for the construction, renovation, or alteration of a nursing home or change in nursing home services in excess of the expenditure minimum made in preparation for any undertaking subject to the provisions under chapter 248-19 WAC and any arrangement or commitment made for financing such undertaking;

(h) No person may divide a project in order to avoid review requirements under any of the thresholds specified under this section; and

(i) The department may issue certificates of need authorizing only predevelopment expenditures, without authorizing any subsequent undertaking for which the predevelopment expenditures are made.

(2) No person shall engage in any undertaking subject to certificate of need review unless:

(a) A certificate of need authorizing such undertaking is issued and remains valid; or

(b) An exemption is granted in accordance with the provisions of this chapter.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 248-19-230 APPLICABILITY OF CHAPTER 248-19 WAC.

**WSR 89-14-078
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 30, 1989]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal

rules concerning social services for families, amending chapter 388-15 WAC;

that the agency will at 10:00 a.m., Tuesday, August 22, 1989, in the Auditorium, OB-2, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 23, 1989.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 22, 1989.

Correspondence concerning this notice and proposed rules shown below should be addressed to:

Troyce Warner
Office of Issuances
Department of Social and Health Services
Mailstop OB-33H
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by August 8, 1989. The meeting site is in a location which is barrier free.

Dated: June 30, 1989

By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Purpose of the Rule Changes: To amend WAC 388-15-207, 388-15-209, 388-15-215 and 388-15-217; and establish a new section WAC 388-15-216.

Reason These Rules Changes are Necessary: To make chore services legal base, eligibility, limitations and employed disabled sections consistent with legislative changes and Medicaid personal care; and establish a new WAC section to separate portions of the chore services program relating to grandparented clients, into its own section.

Summary of Rule Change: Change reference from "residential care" to "long-term care," to be consistent with legislative language; reference Medicaid WAC for portions of the chore services program; delete referral to the volunteer chore services program of certain clients aged sixty or over. The legislature appropriated additional money in the general fund for volunteer chore services; change language of financially eligible clients to conform to legislative language; add restitution payments under certain conditions as resources not to be considered; new WAC established and eligibility criteria for grandparented clients put into separate section; delete provisions for waivers and exception to policy for grandparented attendant care clients above and beyond levels approved prior to June 30, 1989, and who had not had waivers or exception to policy prior to June 30,

1989, to exceed established department rates for attendant care; provide for entering of family care points on the assessment form, for grandparented family care clients; and editorial changes.

Person Responsible for Drafting, Implementation, and Enforcement of the Rules: Samuel H. Koshi, Chore Services Program, Aging and Adult Services Administration, phone (206) 753-1851 or 234-1851 scan, mailstop HB-11.

These rules are not necessary as a result of federal law, federal court decision, or state court decision.

AMENDATORY SECTION (Amending Order 2674, filed 8/17/88)

WAC 388-15-207 CHORE SERVICES FOR ADULTS—LEGAL BASIS—PURPOSE—GOALS. (1) The legal basis for the chore services program is RCW 74.08.530 through 74.08.570.

(2) The purpose of the program is to assist an eligible applicant((s)) at risk of being placed in a ((residential)) long-term care facility by providing allowable chore service((s)) tasks that may allow the eligible applicant((s)) to remain in or return to ((his or her own)) the applicant's home whenever possible.

(3) The department shall limit goals for chore services for adults to those specified in WAC 388-15-010 (1)(b) and (d). Also see WAC 388-15-010(2).

AMENDATORY SECTION (Amending Order 2674, filed 8/17/88)

WAC 388-15-209 CHORE SERVICES—ELIGIBLE INDIVIDUALS. (1) Service eligibility. Adults eligible for chore services shall be:

(a) Eighteen years of age and over;

(b) At ((higher)) risk of ((residential)) long-term care facility placement as evidenced by the need ((of)) for assistance with one or more personal care or related tasks defined in WAC ((388-15-208(9))) 388-15-820 as determined by completion and scoring of the ((CRQ)) assessment form;

(c) ((At risk of residential care placement and unable to perform one or more activities essential to daily living and are in social and economic need as evidenced by one or more of the following:

(i) Seventy-five years of age or over;

(ii) Homebound;

(iii) Chronic physical health problems;

(iv) Chronic mental health problems;

(v) Confused;

(vi) Socially isolated; and

(vii) Living alone.

(d)) Authorized the amount of chore services as determined by the ((CRQ)) assessment;

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(2) Financial eligibility.

(a) To be eligible to receive chore services, an applicant shall meet the financial eligibility requirements established by the department.

(b) An adult determined to be at high risk or at risk of being placed in a ((residential)) long-term care facility is eligible to receive ((the level of)) hourly chore services ((as determined by WAC 388-15-212 if a recipient of)) provided by the department.

(i) ((Supplemental Security Income and/or state supplementation; or)) Has resources at or below ten thousand dollars for one person or fifteen thousand dollars for a two-person family. Allow another one thousand dollars for each additional family member.

~~(ii) ((Limited casualty program medical care as defined by RCW 74.09.010 at time of eligibility determination; or~~

~~(iii) Has gross income, adjusted for family size, at or below thirty percent of the state median income)) Is not eligible for Medicaid personal care, community options program entry system services, or other duplicative payment services.~~

(c) Adult protective service clients determined to be at high risk or at risk of being placed in a ((residential)) long-term care facility are eligible to receive chore services without regard to income or resources, if these services are an integral but subordinate part of the adult protective services plan. These services shall be provided only until the situation necessitating the services has stabilized and are limited to a maximum of ninety days during any twelve-month period.

(d) An adult applicant or client with a gross income, adjusted for family size, at or below thirty percent of the state median income shall receive chore services with no reduction in hours.

(e) An adult applicant or client with a gross income over thirty percent of the state median income ((SMH)) adjusted for family size, and determined to be at high risk or at risk of being placed in a residential care facility ((receives)) shall receive a reduced level of hours. The department shall determine the reduced level by:

(i) Deducting one hour of chore services for each percentage point by which the client's income exceeds thirty percent of the SMI; and

(ii) Deducting an additional hour of service for each percentage point by which the client's income exceeds fifty percent of the SMI.

~~((c) Clients or applicants shall not be eligible for chore services if they have resources in excess of ten thousand dollars for one person or fifteen thousand dollars for a two-person family. Allow another one thousand dollars for each additional family member.))~~

(f) The department shall consider the following resources in determining the value of a client's or applicant's resources:

- (i) Checking accounts;
- (ii) Savings accounts;
- (iii) Certificates of deposit;
- (iv) Money markets;
- (v) Negotiable stocks and bonds;
- (vi) Latest assessed value of lots or property not attached to residence;
- (vii) Market value of a boat or boats, recreational vehicle or vehicles, or excess automobiles;
- (viii) Liquid assets: Such as cash, gold, silver, and other items of an investment and negotiable nature;
- (ix) Resources received in transfer or assignment from a spouse under WAC 388-92-043(5) ((are)) available to the applicant/client as a single-person household and subject to WAC 388-15-209 (2)(e) and (f).

~~((f))~~ (g) The department shall not consider the following resources, regardless of value, in determining the value of a client's or applicant's resources:

- (i) A home and lot normal for the community where the client or applicant resides;
- (ii) Used and useful household furnishings, personal clothing, and one automobile per client;
- (iii) Personal property of great sentimental value;
- (iv) Real or personal property used by the applicant or client to earn income or ((to rehabilitate himself or herself)) for rehabilitation;
- (v) One cemetery plot for each member of the family unit;
- (vi) Cash surrender value of life insurance;
- (vii) Payments received as restitution payments under the Civil Liberties Act of 1988 and the Aleutian and Pribiloff Island Restitution Act, P.L. 100-383.

~~((3) Continuing eligibility for attendant care for adults and supervision of children:~~

~~(a) The department shall no longer authorize attendant care for adults and supervision of children after March 31, 1988. The department shall provide services for persons applying on or after April 1, 1988, based on eligibility as determined in WAC 388-15-209 (1) and (2).~~

~~(b) Clients receiving attendant care and/or supervision of children prior to April 1, 1988, shall continue to be eligible to receive services.~~

~~(c) The department shall make periodic reviews to determine continuing need for and/or eligibility according to the following rules which were in effect prior to April 1, 1988:~~

(i) Authorize attendant care service for clients receiving attendant care prior to April 1, 1988, and requiring assistance with such unscheduled tasks as toileting, ambulation, and wheelchair transfer or protective supervision;

~~(ii) Authorize protective supervision when persons may hurt themselves, others, or damage property if left alone, or confused and may wander, or becomes easily disoriented;~~

~~(iii) Base the amount of service authorized on the total number of hours per day the chore service provider must be with a client. The chore service provider performs necessary household or personal care tasks or assists with activities of daily living during the authorized attendant care hours;~~

~~(iv) Authorize supervision of children only when the client is temporarily absent from the home because of hospitalization and all possible resources have been explored to provide the necessary supervision. This absence shall not exceed two weeks during any six-month period. The number of days and the number of hours per day that the children need supervision is recorded. The chore service provider performs household and personal care tasks for the children during the hours of supervision;~~

~~(v) The client shall provide verification of the need for attendant care by producing a statement from the client's physician.~~

(d) The department shall pay a daily rate for attendant care for adults and supervision of children. The rate shall not exceed the lesser of the following, a maximum of twenty-four dollars and fifty cents per day or the amount determined by the table as follows:

DAILY RATE DETERMINATION

HOURS OF SERVICE PER DAY	PAYMENT PER DAY
21 - 24	up to \$ 24.50
16 - 20	up to \$ 22.50
12 - 15	up to \$ 20.50
8 - 11	up to \$ 17.50
4 - 7	up to \$ 12.50
1 - 3	up to \$ 8.50

The department shall add up to five dollars per day for each additional client authorized for service in the household:

(i) The department shall pay a reduced amount equivalent to the individual provider program hourly rate when the client's income exceeds thirty percent SMI;

(ii) The department shall not pay for services when the client is not in the home, for example, because of hospitalization. If necessary, however, up to seven days during the service month may be provided to enable the client to return home;

(c) An attendant care client may request approval from the department to exceed the maximum daily rate set by the department. The department shall authorize a higher payment rate necessary to maintain the client in their own home when:

(i) The need for the higher payment is specific and clearly measurable; and

(ii) The client provides documentation that services are not available at the established maximum payment rate; and

(iii) The client has made a reasonable effort to find a qualified provider at the established maximum payment rate; and

(iv) The total cost for attendant care services shall not exceed the lesser of the following, a maximum of thirty-one dollars and fifty cents per day, or the amount determined by the table as follows:

HOURS OF SERVICE PER DAY	ADDITIONAL PAYMENT PER DAY
21 - 24	up to \$7
16 - 20	up to \$6
12 - 15	up to \$5
8 - 11	up to \$4
4 - 7	up to \$3
1 - 3	up to \$2

(f) The department shall inform all clients in writing of the process as defined in subsection (3)(c) of this section. Clients shall have the right to request approval from the department to exceed the maximum daily rate.

(g) When the department denies a request to exceed the maximum payment rate or makes approval at a lesser rate than requested by the client, the client shall receive notice of the right to contest the decision pursuant to chapter 388-08 WAC. The department shall approve or deny requests within thirty days.

~~(h) When providing board and room or meals for the chore service provider is an extra cost to the client, the department may make a payment to partially reimburse the cost of this expense. The department shall not reimburse such costs for a spouse provider. The payment shall not exceed an allowance established by the department and shall be prorated by days of service.~~

~~(i) The department shall pay only after the department verifies service delivery.~~

~~(4) Continuing eligibility for family care services:~~

~~(a) The department shall no longer authorize family care after March 31, 1988. Applicants applying on or after April 1, 1988, shall be provided services based on eligibility as determined in WAC 388-15-209 (1) and (2).~~

~~(b) Clients receiving family care services prior to April 1, 1988, shall continue to be eligible to receive services.~~

~~(c) The department shall make periodic reviews to determine continuing need and/or eligibility for family care services according to the following rules which were in effect prior to April 1, 1988. Families may receive services when the client is the normal caretaker of the children, and:~~

~~(i) Is in the home but unable to physically care for the children;~~
~~(ii) Is in the home and physically unable to perform the necessary household tasks; or~~

~~(iii) Is out of the home temporarily, as defined by the department; and~~

~~(iv) Children and family services confirms all possible resources have been explored and no one can or will provide the necessary care.~~

~~(d) For families to receive services, the total family income shall be at or below the financial eligibility requirements established by the department. Minor children shall not be financially eligible in their own right. The minor children are part of the family unit.~~

~~(e) The family care questions take into consideration the ages, number, level of responsibility of the children, and the presence of a spouse when determining the need for chore services.~~

~~(i) Family housework determines the need for additional help cleaning the household because of the presence of children.~~

~~(ii) Family tasks determines the need for escort and transportation, laundry services, meal preparation and shopping, and bathing and dressing for the client's children.~~

~~(iii) Supervision of children determines the need for physical supervision of the children when the client is in the home, but unable to supervise them.~~

~~(iv) The total scoring for subsection (4)(c)(i), (ii), and (iii) are N = 0, M = 14, S = 27, and T = 40.~~

~~(f) The chore services provider may not act as a parent substitute or make major decisions affecting the children.))~~

AMENDATORY SECTION (Amending Order 2625, filed 5/17/88)

WAC 388-15-215 LIMITATIONS ON PROGRAM. (1) The department shall not pay for chore services for teaching or companionship purposes.

(2) Chore services shall not be used for the purpose of delivering skilled nursing care or developing social, behavioral, recreational, communication, or other types of skills.

(3) The department shall not provide chore services to a resident or provider in:

- (a) A group home,
- (b) Licensed boarding home,
- (c) Congregate care facility,
- (d) Intermediate care facility,
- (e) Skilled nursing facility,
- (f) Hospital,
- (g) Institution,
- (h) Adult family home, or
- (i) Child foster home.

Shared living arrangements are not considered group homes.

(4) The department shall provide chore services for the person needing and authorized to receive the service, but not for other household members unless they also meet the eligibility criteria for the service.

(5) The department shall not provide chore services when community resources or family, neighbors, friends, or volunteers are available and willing to provide the service without charge.

(6) ~~(The department shall not authorize or re-authorize chore services for an applicant or client who is eligible to receive community options program entry system funding or other duplicative services payment.~~

~~(7))~~ The department shall not pay for chore services for hourly care clients when the clients are not residing at home, for example, because of hospitalization. In an emergency, however, the department may pay for limited services to enable the client to return home.

~~((8))~~ (7) The department shall periodically re-evaluate all approvals for additional hours. The department shall continue, deny, or alter services to correspond with the client's present chore services need. The department shall send the client a notice of the right to contest denials of service or approval of fewer service hours than previously approved.

~~((9))~~ (8) The department shall not pay for chore services for child care for working ~~((parent(s)))~~ parent.

(9) The department shall terminate chore services for an hourly personal care client if, after periodic review, the client needs assistance with household tasks only.

NEW SECTION

WAC 388-15-216 GRANDPARENTED CLIENTS. (1) Continuing eligibility for hourly care chore service clients:

(a) The department may continue providing hourly chore services for those clients who were receiving assistance only with household tasks before December 14, 1987, provided those clients were receiving this same services as of June 30, 1989; and

(b) The department shall perform periodic reviews to determine continuing need for and/or eligibility according to the rules in effect before December 14, 1987:

(i) If household tasks only clients need assistance with personal care, authorize Medicaid personal care if eligible for Medicaid funding. If not eligible for Medicaid personal care, authorize chore services according to the eligibility requirements for new clients;

(ii) If more or less household task services are required, authorize services accordingly.

(2) Continuing eligibility for attendant care for adults and supervision of children.

(a) The department may continue providing chore services to clients who were receiving attendant care and/or supervision of children prior to April 1, 1988, provided those clients were receiving the same services as of June 30, 1989.

(b) The department shall make periodic reviews to determine continuing need for and/or eligibility according to the following rules which were in effect prior to April 1, 1988:

(i) Authorize attendant care service for clients receiving attendant care prior to April 1, 1988, who continue to need assistance with such unscheduled tasks as toileting, ambulation, and transfer or who need protective supervision;

(ii) Authorize protective supervision when persons may hurt themselves, others, or damage property if left alone, or are confused and may wander, or become easily disoriented;

(iii) Base the amount of service authorized on the total number of hours per day the chore service provider must be with a client. The chore service provider performs necessary household or personal care tasks or assists with activities of daily living during the authorized attendant care hours;

(iv) Authorize supervision of children only when the client is temporarily absent from the home because of hospitalization and all possible resources have been explored to provide the necessary supervision. This absence shall not exceed two weeks during any six-month period. The number of days and the number of hours per day that the children need supervision is recorded. The chore service provider performs household and personal care tasks for the children during the hours of supervision;

(v) The client shall provide verification of the need for attendant care by producing a statement from the client's physician.

(c) The department shall pay a daily rate for attendant care for adults and supervision of children. The rate shall not exceed the lesser of the following, a maximum of twenty-four dollars and fifty cents per day or the amount determined by the table as follows:

DAILY RATE DETERMINATION

HOURS OF SERVICE PER DAY	PAYMENT PER DAY
21 - 24	up to \$ 24.50
16 - 20	up to \$ 22.50
12 - 15	up to \$ 20.50
8 - 11	up to \$ 17.50

HOURS OF SERVICE PER DAY	PAYMENT PER DAY
4 - 7	up to \$ 12.50
1 - 3	up to \$ 8.50

The department shall add up to five dollars per day for each additional client authorized for service in the household.

(i) The department shall reduce the amount of payment by the individual provider program hourly rate when the client's income exceeds thirty percent of the SMI.

(ii) The department shall not pay for services when the client is not in the home, for example, because of hospitalization. If necessary, however, up to seven days during the service month may be provided to enable the client to return home.

(d) The department shall not approve a waiver or exception to policy for a rate higher than the maximum base attendant care daily rate after June 30, 1989. The department shall not increase payment for a client who has an approved waiver and/or exception to policy as of June 30, 1989, to exceed the maximum daily rate set by the department.

(e) When providing board and room or meals for the chore service provider is an extra cost to the client, the department may make a payment to partially reimburse the cost of this expense. The department shall not reimburse such costs for a spouse provider. The payment shall not exceed an allowance established by the department and shall be prorated by days of service.

(f) The department shall pay only after the department verifies service delivery.

(3) Continuing eligibility for hourly family care services.

(a) Clients receiving hourly family care services before April 1, 1988, may continue to be eligible to receive services provided they were receiving the same services as of June 30, 1989.

(b) The department shall make periodic reviews to determine continuing need and/or eligibility for family care services according to the following rules which were in effect prior to April 1, 1988. Families may receive services when the client is the normal caretaker of the children, and:

- (i) Is in the home but unable to physically care for the children;
- (ii) Is in the home and physically unable to perform the necessary household tasks; or
- (iii) Is out of the home temporarily, as defined by the department; and
- (iv) The division of children and family services confirms all possible resources have been explored and no one can or will provide the necessary care.

(c) For families to receive services, the total family income shall be at or below the financial eligibility requirements established by the department. Minor children shall not be financially eligible in their own right. The minor children are part of the family unit.

(d) The family care questions take into consideration the ages, number, level of responsibility of the children, and the presence of a spouse when determining the need for chore services.

(i) Family housework determines the need for additional help cleaning the household because of the presence of children.

(ii) Family tasks determines the need for escort and transportation, laundry services, meal preparation and shopping, and bathing and dressing for the client's children.

(iii) Supervision of children determines the need for physical supervision of the children when the client is in the home, but unable to supervise them.

(iv) Score for subsection (3)(e)(i), (ii), and (iii) is O = 0, M = 14, S = 27, and T = 40. Enter the score on the bottom of the assessment form and add to the total score from the scoring chart.

(e) The chore services provider may not act as a parent substitute or make major decisions affecting the children.

AMENDATORY SECTION (Amending Order 2625, filed 5/17/88)

WAC 388-15-217 CHORE SERVICES FOR EMPLOYED DISABLED ADULTS. (1) The following definitions shall apply for purposes of this section:

(a) "Employed" means engaged on a regular basis in any work activity for which monetary compensation is obtained.

(b) "Total income" is the sum of an applicant's or client's unearned income plus gross earned income.

(2) Employed disabled adults shall be eligible for chore services (~~as provided in this section~~) if they are otherwise eligible under the provisions of WAC 388-15-207 through (~~388-15-215~~) 388-15-216. The employed disabled adults shall participate in the cost of care as authorized by RCW 74.08.570.

(3) To be eligible for chore services under this section, a client or applicant shall meet all of the following conditions:

- (a) Be eighteen years of age or older.
- (b) Be a resident of the state of Washington.
- (c) Be determined by the department to be disabled as specified in subsection (4) of this section.
- (d) Be willing to submit to such examinations as are deemed necessary by the department to establish the extent and nature of the disability.
- (e) Be employed.
- (f) Have earned income which is less than forty percent of the state median income after subtracting work expenses, the cost of chore services, and any medical expenses which are not covered through insurance or another source and such medical expenses are incurred to allow the disabled person to work.
- (g) Be in need of chore services as determined by the department using (~~a client review questionnaire~~) an assessment form.
- (h) Have unearned income at or below forty percent of the state median income or be an adult supplemental security income and/or state supplementation recipient.
- (i) Meet the resource limits specified for the chore services program in WAC 388-15-209 (2)(~~(c) and~~)(b)(i), (f), and (g).
- (j) Promptly report to the department in writing any changes in income or resources which may effect eligibility.
- (k) Agree to pay all chore service costs beyond the state's contribution as determined using a sliding fee schedule.

Percentage of State Median Income (After Deductions)	Percentage of Rate Paid By The Department
Above 0 through 5	95
Above 5 through 10	90
Above 10 through 15	85
Above 15 through 20	80
Above 20 through 25	75
Above 25 through 30	70
Above 30 through 35	65
Above 35 through 40	60

(l) Meet all other requirements for the chore services program as defined in WAC 388-15-207 through (~~388-15-215~~) 388-15-216.

(4) For purposes of this section, an applicant is disabled if either of the following conditions is satisfied:

(a) The department has previously determined the applicant (~~(A)~~) is disabled(~~(A)~~) for the purpose of receiving social security disability insurance (SSDI) (~~(S)~~), supplemental security income (SSI) or, (~~federal aid medical care only (FAMCO)~~) nongrant Medicaid, and there has been no appreciable improvement in the applicant's disabling condition(s) since that disability determination was made.

(b) The applicant is determined by the department to have a medically determinable physical or mental impairment which is comparable in severity to a disability which would qualify an applicant for medical assistance related to Title XVI under WAC 388-92-015 (3)(c).

(5) The department shall pay its share of chore service costs to the client following receipt of documentation that the services were provided. If the department verifies that less service is provided in any month than the maximum authorized, the department shall pay a prorated portion of its share of cost. The client shall employ the chore service provider and shall pay the provider the full amount due for services rendered. If the client receives services exceeding those authorized by the department, or agrees to a rate of pay exceeding that authorized by the department, the client shall be responsible for paying the amount exceeding the department's authorized service cost.

(6) The department shall compute an applicant's work-related expenses as follows:

(a) The department shall deduct work-related expenses in accordance with the "percentage method" or the "actual method," whichever is chosen by the client;

(b) If the client chooses the "percentage method," the department shall deduct twenty percent of the gross earned income;

(c) If the client chooses the "actual method," the department shall deduct the actual cost of each work-related expense. The department shall use this method only when the client provides written verification of all work related expenses claimed.

(d) When determined by the "actual method," allowable work expenses shall consist of:

- (i) Child care;
- (ii) Payroll deductions required by law or as a condition of employment, in amounts actually withheld;
- (iii) The necessary cost of transportation to and from the place of employment by the most economical means, not to include rental cars; and,
- (iv) Expenses of employment necessary for continued employment, such as:

(A) Tools(;;);

(B) Materials(;;);

(C) Union dues(;;);

(D) Transportation to service customers if not furnished or reimbursed by the employer(;;); and

(E) Uniforms and clothing needed on the job but not suitable for wear away from the job.

(e) Even if verified, the department shall not count work-related expenses in excess of the applicant's gross earned income.

(f) The client shall have the option to change methods (~~whenever he or she reports~~) when reporting income to the appropriate department staff.

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

WSR 89-14-079
PROPOSED RULES
BOARD OF HEALTH
[Filed June 30, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Health intends to adopt, amend, or repeal rules concerning public water systems, amending chapter 248-54 WAC;

that the agency will at 9:30 a.m., Wednesday, September 13, 1989, in the Richland City Hall, 505 Swift Boulevard, Richland, WA 99352, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is chapter 43.20 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 13, 1989, Mailstop ET-23, 1112 South Quince Street, Olympia, WA 98504, (206) 586-0399.

Dated: June 28, 1989

By: Paul Trause
Deputy Secretary

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending chapter 248-54 WAC.

Purpose of Rule Change: To clarify the rule and who is subject to it; and incorporate new federal requirements of P.L. 99-339 Safe Drinking Water Act amendments of 1986.

Reasons These Rules are Necessary: To assure provision of potable drinking water to public drinking water

consumers; to comply with provisions of the Federal Safe Drinking Water Act; and to comply with provisions of chapter 43.20 RCW.

Statutory Authority: Chapter 43.20 RCW.

Summary: Chapter 248-54 WAC is being amended to be consistent with new federal public notification requirements. An additional section is being added to clarify who is covered by the rule.

Person Responsible for Drafting These Rules: Alan Rowe, Drinking Water Program Manager, Office of Environmental Health Programs, Mailstop LD-11, Olympia, Washington 98504-0095, phone (206) 753-5986.

These rules are proposed by the State Board of Health.

These rules are necessary as a result of the Federal Safe Drinking Water Act of 1974, P.L. 93-523 and the Safe Drinking Water Act Amendments of 1986, P.L. 99-339.

Small Business Economic Impact Statement: This statement pertains to revisions in chapter 248-54 WAC proposed by the State Board of Health to become effective October 15, 1989, and is prepared to conform with the Regulatory Fairness Act, chapter 19.85 RCW.

Chapter 248-54 WAC defines rules pertaining to public drinking water supplies and proposed revisions will not have a disproportionate economic impact on small businesses.

Reviser's note: The material contained in this filing will appear in the 89-16 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 89-14-080
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 30, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning social services for families, amending chapter 388-15 WAC;

that the agency will at 10:00 a.m., Tuesday, August 8, 1989, in the Auditorium, OB-2, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 9, 1989.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1989.

Correspondence concerning this notice and proposed rules shown below should be addressed to:

Troyce Warner
Office of Issuances
Department of Social and Health Services
Mailstop OB-33H
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 25, 1989. The meeting site is in a location which is barrier free.

Dated: June 30, 1989
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 74.09.520 as amended by ESHB 1968.

Purpose of the Rule Adoption: To obtain administrative authority for implementation of the Medicaid personal care program effective July 1, 1989.

Federal Authority for the Program: 42 CFR 440.170(f) and the Washington Medicaid state plan.

Summary of Rules: Services to be offered to Medicaid categorically eligible clients who reside in a community residence are defined; persons who qualify for the Medicaid personal care program will not be eligible for chore services or adult family home add-ons; criteria for service eligibility are defined; assessment and authorization by the department is specified; provider qualification, registered nurse oversight requirements, and physician's order for service are stated in compliance with 42 CFR 440.170(f); interaction and roles of the department and area agencies on aging are defined; and rates and payment methods are described.

Person Responsible for Drafting, Implementation and Enforcement of the Rules: Rick Bacon, Medicaid Personal Care Program, Aging and Adult Services Administration, phone (206) 586-4746 or 321-4746 scan, mailstop HB-11.

These rules are not necessary as a result of federal law, federal court decision, or state court decision.

This is an emergency WAC adoption.

NEW SECTION

WAC 388-15-810 MEDICAID PERSONAL CARE SERVICES—LEGAL BASIS—PURPOSE. (1) Legal authority for Medicaid personal care services program is found under RCW 74.09.520 and in the Medicaid state plan.

(2) The purpose of the Medicaid personal care services program is to enable eligible individuals to remain in community residences through the provision of semi-skilled maintenance or supportive services.

NEW SECTION

WAC 388-15-820 MEDICAID PERSONAL CARE SERVICES—DEFINITIONS. (1) "Applicant" means a person who applied for Medicaid personal care services.

(2) "Client" means a person determined eligible for Medicaid personal care services.

(3) "Community Residence" means:

(a) The client's own home, whether in a building owned or rented by the client;

(b) A licensed adult family home under department contract;
(c) A licensed boarding home under department contract;
(d) A licensed children's foster family home under department contract; or

(e) A licensed group care family under department contract.

(4) "Direct personal care services" means assistance with tasks involving direct client care which are directly related to the client's medical condition. Such assistance is limited to allowable help with the tasks listed under subdivision (a) of this subsection. The type of help allowable for each task shall not include assistance that must be provided only by a licensed health professional.

(a) "Personal hygiene" means assistance with care of hair, teeth, dentures, shaving, filing of nails, other basic personal hygiene, and grooming needs. Personal hygiene includes supervising client when performing the tasks, assisting client when caring for own appearance, and performing grooming tasks for client when unable to care for own appearance.

(b) "Dressing" means assistance with dressing and undressing. Dressing includes supervising and guiding client when client is dressing and undressing, assisting with difficult tasks such as tying shoes and buttoning, and completely dressing or undressing client when unable to participate in dressing or undressing self.

(c) "Bathing" means assisting client to wash self. Bathing includes supervising client who can bathe self when guided, assisting client with difficult tasks such as getting in or out of the tub or washing back, and completely bathing the client if totally unable to wash self.

(d) "Eating" means assistance with eating. Eating includes supervising client when able to feed self if guided, assisting with difficult tasks such as cutting food or buttering bread, and feeding the client when unable to feed self.

(e) "Toileting" means assistance with bladder or bowel problems. Toileting includes supervising the client when able to care for own toileting needs if guided, helping client to and from the bathroom, assisting with bedpan routines, diapering and lifting client on and off the toilet. Toileting may include performing routine peri/colostomy/catheter tasks, for the client when client is able to supervise the activities.

(f) "Ambulation" means assisting the client to move around. Ambulation includes supervising the client when walking alone or with the help of a mechanical device such as a walker if guided, assisting with difficult parts of walking such as climbing stairs, supervising the client if client is able to propel a wheelchair if guided, pushing the wheelchair, and providing constant physical assistance to the client if totally unable to walk alone or with a mechanical device.

(g) "Transfer" means assistance with getting in and out of a bed or wheelchair or on and off the toilet or in and out of the bathtub. Transfer includes supervising the client when able to transfer if guided, providing steadying, and helping the client when client assists in own transfer. Lifting the client when client is unable to assist in their own transfer requires specialized training.

(h) "Positioning" means assisting the client to assume a desired position. Positioning includes assistance in turning and positioning to prevent secondary disabilities, such as contractures and balance deficits.

(i) "Self-medication" means assisting the client to self-administer medications prescribed by attending physician. Self-medication includes reminding the client of when it is time to take prescribed medication, handing the medication container to the client, and opening a container.

(j) "Body care" means assisting the client with exercises, skin care including the application of ointments or lotions, changing dry bandages or dressings not requiring professional judgment. Body care excludes foot care beyond washing of feet and filing toenails. Body care excludes foot care for clients who are diabetic or have poor circulation. Body care excludes changing bandages or dressings when sterile procedures are required. Provision of body care tasks is limited. The client must be able to supervise the provision of these tasks.

(k) "Travel to medical services" means accompanying or transporting the client to a physician's office or clinic in the local area to obtain medical diagnosis or treatment.

(l) "Essential shopping" means assistance with shopping to meet the client's health care or nutritional needs. Limited to brief, occasional trips in the local area to shop for food, medical necessities, and household items required specifically for the health and maintenance of the client. Essential shopping includes assisting when the client can participate in shopping and doing the shopping when the client is unable to participate.

(5) "Handicapping condition" means a medical condition which is a primary diagnosis by a physician, and causes a functional impairment in activities of daily living.

(6) "Household assistance" means assistance with incidental household services provided as an integral, but subordinate part of the personal care furnished directly to the client. Household assistance shall be considered an integral part of personal care when such assistance is directly related to a medical condition or to a service reflected in the client's service plan and is furnished along with a direct personal care service. The department shall not authorize household assistance as a Medicaid personal care task in an adult family home, licensed boarding home, children's foster family home, or children's group care facility.

(a) "Meal preparation" means assistance with preparing meals. Meal preparation includes planning meals including special diets, assisting clients able to participate in meal preparation, preparing meals for clients unable to participate, and cleaning up after meals. This task may not be authorized to just plan meals or clean up after meals. The client must need assistance with actual meal preparation.

(b) "Laundry" means washing, drying, ironing, and mending clothes and linens used by the client or helping the client perform these tasks.

(c) "Housework" means performing or helping the client perform those periodic tasks required to maintain the client in a safe and healthy environment. Activities performed include such things as cleaning the kitchen (does not include washing dishes) and bathroom, sweeping, vacuuming, mopping, cleaning the oven, and defrosting the freezer, shoveling snow. Washing inside windows and walls is allowed, but is limited to twice a year.

(d) "Splitting/stacking/carrying wood" means splitting wood for the client and used as the sole source of fuel for heating and/or cooking. This task is limited to splitting wood the client has at own home.

(7) "Immediate family member" means the client's husband or wife, parent, or child.

(8) "Medicaid personal care services" means medically-oriented tasks, directed at the client or the client's immediate environment, that are necessitated by a client's handicapping condition. Such services shall be:

- (a) Based on an assessment of applicant/client needs;
- (b) Provided in conformance with a service plan ordered by the client's attending physician;
- (c) Reviewed by a registered nurse at least every ninety days;
- (d) Performed by qualified and trained personal care aides, excluding members of the client's immediate family.

(9) "Medically-oriented tasks" means direct personal care services, household assistance provided as an integral but subordinate part of the personal care furnished directly to the client, and supervision.

(10) "Personal care aide" means a person meeting the qualification and training requirements established by the department and providing direct personal care services to clients. This person may be an employee of a qualified agency provider or may be under contract as a qualified individual provider.

(11) "Personal care provider" means a qualified agency provider or a qualified individual provider under department contract to provide Medicaid personal care services.

(12) "Personal care service plan" means a plan which is:

- (a) Developed by the department in cooperation with appropriate community agency staff;
- (b) Written and describes the personal care services which will be provided, frequency of provision, and expected outcomes;
- (c) Ordered by the client's attending physician.

(13) "Physician" means a doctor of medicine, osteopathy or podiatry, as defined under WAC 388-80-005(54), or the client's Christian Science practitioner.

(14) "Physician's order" means written approval by the client's attending physician of the specific personal services to be provided to the client.

(15) "Qualified agency provider" means a community agency which applied for licensing as a home care agency or home health agency.

(16) "Qualified individual provider" means a person meeting the individual provider qualifications established by the department.

(17) "Supervision" means being available to:

- (a) Help the client with personal care tasks that cannot be scheduled (toileting, ambulation, transfer, positioning, some medication assistance); and/or
- (b) Provide protective supervision to a client who cannot be left alone because of confusion, forgetfulness, or lack of judgment.

The department shall not authorize supervision as a Medicaid personal care task in an adult family home, licensed boarding home, children's foster family home, or children's group care facility.

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

NEW SECTION

WAC 388-15-830 MEDICAID PERSONAL CARE SERVICES—ELIGIBILITY. (1) The department shall provide Medicaid personal care services to an individual:

(a) Financially eligible; that is, certified as a Title XIX eligible categorically needy medical assistance client under WAC 388-82-010 and 388-82-115; and

(b) Programmatically eligible; that is, due to a handicapped condition, is determined to need Medicaid personal care services to remain in a community residence; and

(c) Residing in own residence, in a licensed and contracted adult family home, a licensed boarding home under department contract, a children's foster family home, or a children's group care facility; and

(d) With a physician's order approving provision of specific personal care services.

(2) Eligibility shall begin upon date of the department's service authorization.

(3) The department shall not authorize chore services or adult family home add-on services to an individual qualifying for Medicaid personal care service when the individual's service needs are met within the scope of the Medicaid personal care program.

NEW SECTION

WAC 388-15-840 MEDICAID PERSONAL CARE SERVICES—ASSESSMENT—AUTHORIZATION. (1) The department shall provide an assessment of individuals applying for, or being referred for, Medicaid personal care services.

(2) The department shall use the approved assessment form in an interview with the applicant documenting:

(a) The applicant's functional capability to perform personal care tasks essential to health or safety;

(b) Current and potential care contributions by formal and informal supports available to the applicant;

(c) The applicant's preference for how care is provided.

(3) When children are assessed, the assessor shall consider the personal care applicant's age in determining if the degree of personal care needed is appropriate to the child's age, or the result of the applicant's functional impairment. The need for personal care services shall only be assessed for needs exceeding the level of age appropriate personal care.

(4) Assessment and reassessment shall be performed within the department-established time frames.

(5) The department shall be responsible for authorizing Medicaid personal care services.

(6) The number of hours authorized shall be based on the applicant/client's need for assistance with Medicaid personal care tasks as determined through the assessment process. Points shall be awarded for each task according to the degree of assistance needed, and the point total shall be converted into maximum allowable hours. The procedure for conversion of points to hours of service shall comply with WAC 388-15-212(7).

(7) The client's attending physician shall review and reauthorize the client's service plan at least once every six months.

NEW SECTION

WAC 388-15-850 MEDICAID PERSONAL CARE SERVICES—NURSE OVERSIGHT. (1) A registered nurse shall visit the client at least once every ninety days to:

(a) Review the client's medical and/or mental condition;

(b) Review the service plan determining if revisions are required and, if so, recommend revisions;

(c) Review the client's need for continued care;

(d) Assess the quality of personal care services received;

(e) Assess the personal care provider's need for additional training.

(2) The registered nurse shall document the result of an oversight visit on the department-prescribed form.

NEW SECTION

WAC 388-15-860 MEDICAID PERSONAL CARE SERVICES—PERSONAL CARE AIDE QUALIFICATIONS. (1) The department shall:

- (a) Define minimum qualifications for personal care aides and require aides meet the qualifications;
- (b) Define minimum orientation and training requirements for personal care aides and require documentation stating minimum requirements are met;
- (c) Definitions for minimum qualifications and training requirements for personal care aides shall be contained in the department's field manual for Medicaid personal care.

NEW SECTION

WAC 388-15-870 MEDICAID PERSONAL CARE SERVICES—SERVICE PROVISION SYSTEM. (1) Area agencies on aging shall contract with qualified agency providers to perform Medicaid personal care services at the department-established rate.

- (2) Area agencies on aging shall provide or contract for registered nurse oversight for personal care services.
- (3) The department shall contract with area agencies on aging to assume the above responsibilities.
- (4) The department shall contract with qualified individual providers to perform Medicaid personal care services at the department-established rate.
- (5) Agency providers shall deliver services to clients in the clients' own residences unless the personal care service plan exceeds eighty-five hours per month. Clients shall have freedom of choice in selecting a qualified agency provider.
- (6) Individual providers under contract with the department shall deliver services to clients in the clients' own residence when the personal care service plan exceeds eighty-five hours per month. Clients shall have freedom of choice in selecting a qualified individual provider.
- (7) Adult family home (AFH) sponsors or licensed boarding home staff shall provide services to clients in an AFH or licensed boarding home. Foster parents or group care facility staff shall provide services to children in a foster family home or group care facility. Clients shall have freedom of choice in selecting a licensed AFH or boarding home, provided the AFH or boarding home can meet their personal care needs.

NEW SECTION

WAC 388-15-880 PAYMENT AND AUTHORIZATION. Payment and authorization.

- (1) In the individual provider program, the department pays an hourly wage directly to the service provider. No in-home personal care service plans shall authorize services by an individual provider unless the service need exceeds eighty-five hours per month.
- (2) In the contracted program, the department pays the contractor who pays the service provider.
- (3) The department pays an hourly rate of five dollars and thirty-six cents for actual hours worked in providing Medicaid personal care services.
- (4) No contractor shall pay service providers performing Medicaid personal care services less than five dollars and fifteen cents per hour.
- (5) Authorizations for in-home Medicaid personal care services shall not exceed seven hundred seventy-two dollars and ten cents per month.
- (6) Authorizations for Medicaid personal care in an adult family home shall not exceed sixty hours of service per month.
- (7) Authorizations for Medicaid personal care in a licensed boarding home under department contract shall not exceed thirty hours per month.
- (8) Payment shall not be made for services provided exceeding the department's authorization.

WSR 89-14-081
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed June 30, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning alcohol detoxification program, amending chapter 388-40 WAC;

that the agency will at 10:00 a.m., Tuesday, August 22, 1989, in the Auditorium, OB-2, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 23, 1989.

The authority under which these rules are proposed is chapter 18, Laws of 1989 1st ex. sess.

The specific statute these rules are intended to implement is chapter 18, Laws of 1989 1st ex. sess.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 22, 1989.

Correspondence concerning this notice and proposed rules shown below should be addressed to:

Troyce Warner
 Office of Issuances
 Department of Social and Health Services
 Mailstop OB-33H
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by August 8, 1989. The meeting site is in a location which is barrier free.

Dated: June 30, 1989
 By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

The Following Sections are Affected by this Revision: WAC 388-40-010, 388-40-020, 388-40-030, 388-40-040, 388-40-050, 388-40-055, 388-40-060, 388-40-080, 388-40-090, 388-40-091, 388-40-100 and 388-40-110.

Purpose of this Change: To amend rules relating to the Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) program.

This rule change is necessary to comply with the provisions of RSSB 5897, which becomes law on July 1, 1989.

Statutory Authority: Chapter 74.50 RCW, as amended by RSSB 5897.

These Rule Changes will have the Following Effect: They establish specific medical incapacity criteria for ADATSA shelter services, and set forth new incapacity

criteria for treatment services; they reinstate the requirement that shelter clients live in contracted shelter facilities if available; they mandate an intensive protective payee system as an alternative to shelter clients when no contracted beds are available; and they set priorities for admission to ADATSA treatment.

Person Responsible for Drafting, Implementation and Enforcement of These Rules: Cecile Anderson, Community Services Program Manager, Bureau of Alcohol and Substance Abuse, phone 753-5866, 234-5866 scan, mailstop OB-44W.

These rules are necessary as a result of state law.

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-010 ALCOHOLISM AND DRUG DETOXIFICATION PROGRAM—ELIGIBLE PERSONS. (1) Persons eligible for three-day detoxification services for acute alcoholic condition or five-day detoxification services for acute drug addiction shall be:

(a) All grant, medical, and supplemental security income (SSI) beneficiaries; and

(b) ~~((Individuals))~~ Persons whose combined nonexempt income and/or resources do not exceed the aid to families with dependent children (AFDC) payment standards, and who have not transferred resources within two years prior to the date of application without having received adequate consideration according to the provisions of WAC 388-28-461.

(2) The department shall exempt the following resources ~~((shall be exempt))~~ for the alcoholism and drug detoxification program:

(a) A home.
(b) Household furnishings and personal clothing essential for daily living.

(c) Other personal property used to reduce need for assistance or for rehabilitation.

(d) A used and useful automobile.

(3) The department shall not exempt the following resources ~~((are not exempt))~~:

(a) Cash(~~(:)~~);
(b) Marketable securities; and
(c) Any other resource not specifically exempted that can be converted to cash.

(4) The department shall deduct or exempt the following ~~((shall be deducted or exempted))~~ from income:

(a) Mandatory deductions of employment.
(b) Total income and resources of a noninstitutionalized SSI beneficiary.

(c) Support payments paid under a court order.

(d) Payments to a wage earner plan specified by a court in bankruptcy proceedings, or previously contracted major household repairs ~~((if))~~ when failure to make such payments ~~((would))~~ will result in garnishment of wages or loss of employment.

(5) The department shall not require recipients receiving detoxification services ~~((shall not be required))~~ to incur a deductible as a factor of eligibility for the covered period of detoxification.

(6)(a) The department shall determine eligibility for the ~~((alcoholism))~~ detoxification program ~~((shall be determined))~~ on the basis of information shown on the department's application forms.

(b) The department shall require supplemental forms, verification procedures, and/or face-to-face interviews ~~((shall be required))~~ only in cases where there is a specific reason for requiring further verification of eligibility.

(7) When the department is notified within ten working days of the date detoxification began, certification shall cover this period if all eligibility factors ~~((have been))~~ are met.

(8) The department shall continue the effective period of eligibility ~~((shall be continued))~~ from the date detoxification treatment began through the end of the month in which the three-day or five-day treatment was completed.

(9) Services must meet the following criteria to be paid through the ~~((alcoholism))~~ detoxification program:

(a) Such services must be directly related to detoxification, and
(b) Such services must be performed in a certified detoxification center or a general hospital with certified detoxification facilities.

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-020 ALCOHOLISM AND DRUG ADDICTION TREATMENT AND SUPPORT ACT (ADATSA)—PROGRAM DESCRIPTION. (1) The Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) is a legislative enactment ~~((which provides))~~ providing state-financed treatment and support to indigent alcoholics and drug addicts.

(2) The purpose of ADATSA is to assist in the rehabilitation of those alcoholics and drug addicts who can benefit from ~~((available community))~~ treatment ~~((programs))~~, and to provide a program of shelter services ~~((to meet the basic needs of those who cannot benefit from such programs))~~ for those whose diseases have resulted in incapacitating physiological or cognitive impairments.

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-030 ADATSA SERVICES. (1) The department shall provide ADATSA services provided for by legislative appropriation and only to the extent each service conforms to all conditions and limitations set by the department.

(2) Persons ~~((who qualify))~~ qualifying for the ADATSA program ~~((shall))~~ may be eligible for:

(a) ~~((A continuum of))~~ Alcohol/drug treatment services and support ~~((as))~~ described ~~((in))~~ under WAC 388-40-090(~~(:)~~) and 388-40-095; or

(b) Shelter services ~~((as))~~ described ~~((in))~~ under WAC 388-40-100. ~~((2))~~ (3) ~~((Recipients of))~~ Persons eligible for ADATSA are also eligible for medical care services ~~((as))~~ described ~~((in))~~ under WAC 388-86-120.

AMENDATORY SECTION (Amending Order 2635, filed 6/21/88)

WAC 388-40-040 FINANCIAL ELIGIBILITY REQUIREMENTS. (1) An applicant/recipient (A/R) of ADATSA shall:

(a) Be ~~((at least))~~ eighteen years of age or older,

(b) Be a resident of the state of Washington as defined in WAC 388-26-055 and either a United States citizen or alien who:

(i) Is lawfully admitted for permanent residence; or

(ii) Is otherwise permanently residing in the United States under color of law; or

(iii) Has been granted temporary residency status under the Immigration Reform and Control Act.

(c) Furnish the department with ~~((his or her))~~ the applicant's Social Security number. If the applicant cannot furnish a Social Security number because it has not been issued or is not known, ~~((he or she))~~ the applicant shall apply for a number prior to authorization of assistance. The applicant shall provide the Social Security number to the department upon receipt.

(d) Meet the same income and resource ~~((eligibility requirements))~~ criteria as for the general assistance-unemployable (GA-U) program, except persons excluded from GA-U under WAC 388-37-010 because they are recipients of federal aid may be eligible for ADATSA ~~((residential))~~ treatment services.

(2) ~~((Applicants/recipients))~~ A/Rs placed in an alcohol or drug congregate care facility shall meet the payment and procedural requirements set forth in WAC 388-15-568. However, the department shall not require recipients receiving services in an intensive inpatient alcoholism/drug treatment program of thirty days or less ~~((as defined in WAC 275-19-020))~~ to participate in the cost of care.

(3) The department shall require recipients with income in excess of the clothing and personal incidental standard to contribute that excess toward the cost of their care in a recovery house, extended care recovery house, or long-term care or drug residential treatment facility beginning the month following the month of admission. The department shall compute this participation amount according to the rules applicable to the program under which the benefits are received.

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-050 ~~((MEDICAL ELIGIBILITY))~~ INCAPACITY REQUIREMENTS FOR ADATSA TREATMENT. (1) If otherwise eligible, ADATSA ~~((assistance shall))~~ treatment services, within the current appropriation, may be granted to ~~((alcoholics and))~~ an alcoholic or drug addict ~~((s))~~ whose chemical dependency is severe enough to render ~~((them))~~ the applicant incapable of gainful employment.

(2) In order to qualify for ADATSA treatment services, an applicant shall:

(a) Meet the criteria for Psychoactive Substance Dependence In the Diagnostic and Statistical Manual of Mental Disorders (third edition revised), published by the American Psychiatric Association, also referred to below as the DSM III-R, for a psychoactive substance class other than nicotine, either mild, moderate, or severe;

(b) Be incapacitated and unable to work. Incapacity shall exist if the applicant meets one or more of the following:

(i) Is currently pregnant;

(ii) Has been determined incapacitated for the purpose of eligibility for ADATSA shelter within the last six months;

(iii) Currently meets the DSM III-R criteria for severe psychoactive substance dependence and at least one of the following occurred at least thirty-six months before application or twelve months for cocaine dependence:

(A) Diagnosis of severe psychoactive substance dependence by a department-approved chemical dependency treatment program, department designated chemical dependency assessment center, or department-approved DWI assessment center;

(B) Admission to a department-approved alcohol/drug treatment program;

(C) Admission to a department-approved detoxification program; or

(D) Two or more arrests for driving while intoxicated or actual physical control.

(iv) Lost two or more jobs during the last six months due to chemical dependency; or

(v) Has been admitted to a department-approved outpatient treatment program during the last six months and the outpatient treatment provider certifies the treatment recipient is not benefiting from outpatient treatment and needs more intensive chemical dependency treatment service.

(3) Notwithstanding subsection (2) of this section, an applicant meeting the following criteria shall not be eligible for ADATSA treatment when the applicant:

(a) Is not clearly diagnosed as currently dependent on psychoactive substances other than nicotine; or

(b) Has abstained from alcohol and drug use for at least the last ninety days; or

(c) Has been gainfully employed in a job in the competitive labor market at any time during the last thirty days. "Gainfully employed" means performing in a regular and predictable manner an activity for pay or profit. Gainful employment shall not include work in a department-approved sheltered workshop or sporadic or part-time work, if the individual, due to functional limitation, is unable to compete with unimpaired workers in the same job.

(4) A current recipient of ADATSA treatment services successfully participating in outpatient treatment shall continue to be considered to be incapacitated through completion of planned treatment, even if the recipient becomes employed, abstains from alcohol or drug use, or has full or partial remission of psychoactive substance abuse dependence.

(5) Incapacity based on alcoholism or drug addiction shall be determined by a department designated chemical dependency assessment center. The assessment center is the department's sole source of medical evidence required for the diagnosis and evaluation of alcoholism/drug addiction and its effects on employability.

(a) The department shall require such an assessment in writing for all ADATSA applicants.

(b) The costs of assessments needed to determine eligibility shall be paid ((for)) by the department.

NEW SECTION

WAC 388-40-055 INCAPACITY REQUIREMENTS FOR ADATSA SHELTER. (1) If otherwise eligible, ADATSA shelter services shall, within the current appropriation, be granted to an alcoholic or drug addict whose chemical dependency has resulted in an incapacitating physiological or cognitive impairment.

(2) In order to meet shelter incapacity standards, an applicant shall meet the following conditions:

(a) Be actively addicted, as determined by the assessment center, "active addiction" for shelter purposes means use of alcohol or drugs by a diagnosed alcoholic or drug addict within the sixty-day period immediately preceding the latest assessment center evaluation; and

(b) Have resulting physiological or organic damage, or have resulting cognitive impairment not expected to dissipate with sixty days of sobriety or detoxification.

(i) In order to qualify on the basis of physical impairment, the physiological or organic damage shall have at least a severity rating of "03" defined under WAC 388-37-110.

(ii) In order to qualify on the basis of cognitive impairment, the applicant shall have at least a moderate impairment of ability to understand, remember, and follow complex instructions, plus an overall moderate impairment in ability to learn new tasks, to exercise judgment and make decisions, and to perform routine tasks without undue supervision.

(3) The diagnosis and severity of the physiological or cognitive impairment must be supported by documented medical evidence from a physician or psychologist.

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-060 ELIGIBILITY DETERMINATION AND REVIEW--((TIMEFRAMES)) TIME FRAME. The department shall:

(1) Make a decision confirming or denying eligibility for ADATSA shelter within forty-five days of the date of application, except in circumstances beyond the control of the agency such as failure or delay in securing necessary information or documentation on the part of the applicant.

(2) Redetermine incapacity and financial and medical eligibility for ADATSA shelter at least every six months ((except that those recipients who are receiving only shelter services may have their incapacity reviewed yearly)).

(3) Provide adequate and advance notice of adverse action in accordance with WAC 388-33-376.

AMENDATORY SECTION (Amending Order 2740, filed 12/21/88)

WAC 388-40-080 ADATSA ASSESSMENT CENTERS--ROLE. (1) ADATSA assessment centers shall:

(a) Be responsible for diagnostic evaluation and treatment placement; and

(b) Not be responsible for providing direct treatment.

(2) The assessment center shall, in accordance with standards set forth under chapter 275-19 WAC, conduct a face-to-face diagnostic assessment of the applicant to:

(a) Determine if the applicant is chemically dependent;

(b) Determine if the applicant meets incapacity ((based on alcoholism or drug addiction)) standards for treatment under WAC 388-40-050; and

(b) Determine whether the incapacitated applicant is willing ((and)), able, and eligible to undergo a course of ADATSA treatment ((or desires shelter or medical assistance only)).

(3) Once the treatment applicant's financial and medical eligibility is established, the assessment center shall:

(a) Develop an ADATSA treatment plan;

(b) Arrange all placements into ADATSA treatment ((and/or shelter facilities)) taking into account the treatment priorities set forth under WAC 388-40-091;

((b)) (c) Provide the applicant with written notification of the applicant's right to return to the community service office (CSO) at any time while receiving ADATSA treatment ((or shelter assistance)). This includes, but is not limited to, those situations where the ADATSA recipient is discharged from any inpatient, recovery house, or outpatient((, or shelter)) facility or agency providing services under contract to the department;

((c)) (d) Provide the applicant with written notification of the applicant's right to request a fair hearing to challenge any action ((which affects)) affecting eligibility for ADATSA treatment ((or shelter assistance));

((d)) (e) Provide ongoing case monitoring of treatment ((and/or shelter)) services; and

((e)) (f) Notify the community services office promptly of all placement or eligibility status changes.

AMENDATORY SECTION (Amending Order 2635, filed 6/21/88)

WAC 388-40-090 ADATSA TREATMENT MODALITIES--DESCRIPTION OF SERVICES, REQUIREMENTS, AND LIMITATIONS. (1) The department shall offer ADATSA treatment services to eligible ((applicants/recipients)) A/Rs incapacitated by alcoholism or drug addiction, subject to:

(a) Availability defined under WAC 388-40-030(1); and

(b) Priority classifications set forth under WAC 388-40-091.

(2) The department shall limit treatment services to a ((total)) maximum of six months in a twenty-four month period. The twenty-four month period begins on the date of initial entry into treatment.

(3) The assessment center shall determine a course of treatment based on an individual assessment of alcohol/drug involvement, and treatment needs in accordance with RCW 70.96A.100(2) and the procedures ~~((m))~~ under WAC 275-19-185.

(4) Treatment may consist of residential and/or outpatient services.

(5) The department shall limit residential treatment to the following services:

(a) Intensive inpatient treatment, not to exceed thirty days per admission;

(b) Recovery house treatment, not to exceed sixty days per admission;

(c) Extended care recovery house treatment, not to exceed ninety days;

(d) Long-term care residential treatment, not to exceed one hundred eighty days;

(e) Drug residential treatment, not to exceed one hundred eighty days.

(6) An ~~((applicant/recipient shall qualify))~~ A/R qualifies for up to ~~((six months))~~ ninety days of direct outpatient treatment services if the assessment center determines ~~((that))~~ residential treatment is not necessary or appropriate. The assessment center shall base this determination on clinical or medical factors ~~((which would indicate))~~ indicating the likelihood ~~((that))~~ of an ~~((applicant/recipient would succeed))~~ A/R's success in a less structured primary treatment modality. Such factors may include an assessment of former treatment history, the number of detoxification admissions, and the chronicity, and degree of incapacity of the ~~((applicant/recipient))~~ A/R. The assessment center shall also consider social factors such as the availability of social support systems, family support, and stable living arrangement when evaluating the individual's ability to benefit from primary outpatient treatment.

(7) No recipient shall receive more than ninety days of ADATSA outpatient treatment in a twenty-four-month period, if referred:

(a) Directly to outpatient treatment; or

(b) Following a residential placement.

(8) ADATSA recipients who withdraw or are discharged from treatment for any reason shall ~~((be subject to termination and shall reapply and/or))~~ be referred to the assessment center if ~~((they wish))~~ the recipient wishes further ADATSA treatment services.

(a) ~~((Recipients who drop))~~ A recipient dropping out of treatment in the intensive inpatient phase may be required to repeat this phase.

(b) ~~((Recipients who drop))~~ A recipient dropping out of treatment during the recovery house or outpatient phase may be required to return to the modality from which ~~((they))~~ the recipient dropped out or may be required to enter intensive inpatient treatment if, in the clinical judgment of the assessment center, a more structured form of treatment seems warranted. The assessment center shall refer to inpatient or residential treatment those recipients ~~((who demonstrate))~~ demonstrating an inability to remain abstinent in outpatient treatment.

(c) ~~((Recipients who have been))~~ A recipient absent from inpatient treatment or other residential services for less than seventy-two hours may, at full discretion of the providing program director, reenter that program without being considered as having dropped out and without being required to ~~((reapply))~~ apply for readmittance through the assessment center.

NEW SECTION

WAC 388-40-091 AVAILABILITY OF TREATMENT—PRIORITY GROUPS. (1) The assessment center shall, in assigning residential admissions, give first priority to pregnant women and parents having children in the home. In addition, the assessment center shall provide priority access to ensure residential treatment admissions for:

(a) Persons referred through the children's protective services (CPS) program; and

(b) Intravenous (IV) drug users.

(2) In assigning outpatient admissions, the assessment center shall give first priority to pregnant women and families with children for whom access to Title XIX outpatient treatment is unavailable. In addition, the assessment center shall provide priority access to ensure outpatient admission for:

(a) Persons completing residential treatment; and

(b) Persons referred through CPS; and

(c) Intravenous drug users.

AMENDATORY SECTION (Amending Order 2740, filed 12/21/88)

WAC 388-40-100 ADATSA SHELTER SERVICES. (1) Subject to provisions under WAC 388-40-0301, the department shall provide shelter services to eligible ADATSA ~~((applicants/recipients:~~

~~((a) Who refuse treatment; or~~

~~((b) Who have exhausted their six months of treatment in a twenty-four month period; or~~

~~((c) Who are in temporary need of shelter pending placement into a treatment facility))~~ A/Rs meeting the incapacity criteria under WAC 388-40-055.

~~((2) ((Eligible applicants/recipients wishing shelter services shall have their choice of:~~

~~((a) Placement by the assessment center into a department-contracted shelter facility which provides room and board; or~~

~~((b) A shelter assistance payment, through a protective payee, for independent housing and basic needs))~~ "Shelter services" or "shelter assistance" means shelter for an ADATSA recipient in a facility under contract with the department to provide room and board in a supervised living arrangement, normally in a group or dormitory setting. The department shall limit ADATSA shelter services to shelter assistance in the contracted facilities unless the recipient resides in a county described under subsection (3) of this section.

~~((3) A recipient residing in a county where no contracted shelter bed is available may receive shelter assistance in independent housing, subject to the following provisions:~~

~~((a) The recipient shall, as a condition of continued eligibility, move to a contracted shelter bed when available. "Availability" means the existence of a vacant shelter bed, rather than whether or not a particular A/R is accepted or rejected from a shelter facility based on disciplinary problems;~~

~~((b) The recipient shall receive the monthly shelter assistance payment through an intensive protective payee defined under WAC 388-40-110; and~~

~~((c) The department shall provide assistance for independent housing only to a recipient ~~((s who will be))~~ residing in a permanent residential structure. ~~((These recipients))~~ The recipient must also have a deed of purchase, rental agreement, or other verifiable written agreement between ~~((themselves))~~ the recipient and the person or entity to whom ~~((they are))~~ the recipient is obligated for shelter costs or from whom ~~((they are))~~ the recipient is receiving supplied shelter.~~

(4) The department shall base the amount of assistance for independent housing and basic needs on the appropriate payment standard in WAC 388-29-100 (3)(a) or (b). For recipients in a contracted shelter facility, the department shall provide an allowance for clothing and personal incidentals based on the standard in WAC 388-29-130.

(5) ~~((Recipients))~~ A recipient receiving contracted shelter services who subsequently leaves shelter without notice for more than seventy-two hours, or ~~((are))~~ is discharged from the facility for disciplinary reasons, shall be subject to termination. ~~((Upon reapplication and/or re-referral, the assessment center shall again offer treatment and/or shelter as appropriate.))~~

~~((6) A recipient requesting a fair hearing within the advance notice period before termination shall be eligible for continued benefits pending the fair hearing in accordance with WAC 388-33-377. The department shall base the amount of any continued benefits on the amount the recipient was eligible at the time of the fair hearing request. For example, a recipient in independent housing at the time of proposed termination may continue to receive shelter assistance through an intensive protective payee, while a recipient discharged from a shelter facility may continue to receive the clothing and personal incidentals allowance.~~

AMENDATORY SECTION (Amending Order 2723, filed 11/7/88)

WAC 388-40-110 ADATSA PROTECTIVE PAYEE REQUIREMENTS. (1) The department shall pay the assistance needs of recipients receiving outpatient treatment or shelter assistance ~~((in independent housing))~~ by protective payee or vendor payment. ~~((See WAC 388-33-455 for protective payee selection criteria.))~~

~~((a) The protective payee for an outpatient recipient shall be the same agency providing outpatient treatment.~~

~~((b) The protective payee for a shelter recipient in independent housing shall be an agency under contract with the department to provide intensive protective payee services described under subsection (3) of this section; and~~

(c) The protective payee for a shelter recipient residing in a contracted shelter facility shall be the facility operator. The facility operator shall have the authority to use personal discretion on the method of disbursing the recipient's clothing and personal incidental money each month.

(2) ~~((An ADATSA))~~ The protective payee for an outpatient recipient shall have the authority and responsibility to make decisions about the expenditure of outpatient treatment stipends ((or shelter assistance)). Disbursement of funds shall be made first to assure the basic needs of shelter, utilities, food, clothing, and personal incidentals are met.

(a) The protective payee for a recipient in outpatient treatment shall encourage the recipient to participate in the decision-making process as a means of developing good money management, budgeting, and decision-making skills. The amount of control or latitude exercised shall depend upon the recipient's status in treatment and the judgment of the protective payee as to how responsible the recipient has become.

(b) ~~((The protective payee for a shelter assistance recipient shall first disburse a payment for shelter and utilities, such as a check directly to the landlord, mortgage company, utility company, etc.~~

~~(3))~~ The outpatient protective payee may use ((his or her)) discretion on the method of disbursing to the recipient any cash balance remaining from the recipient's monthly assistance warrant. The protective payee has the authority to apportion any remaining funds to the recipient at regular intervals throughout the month.

(3) The intensive protective payee for a shelter recipient shall provide case management services as well as sufficient control of monthly shelter expenditures as necessary assuring the recipient's basic needs are met and preventing the diversion of assistance toward purchase of alcohol or drugs. The intensive protective payee shall:

(a) First disburse a payment for shelter and utilities, such as a check directly to the landlord, mortgage company, utility company, etc.;

(b) Pay all vendors directly for goods or services provided to or for the recipient, including personal and incidental expenses; and

(c) Make exceptions only where unusual circumstances prevent direct payment and the recipient is unlikely to divert the money to purchasing alcohol or drugs.

(4) ~~((In the event the recipient and/or protective payee relationship is terminated for any reason, the protective payee shall return any remaining funds to the department.~~

(5) The department has legislative authority, through June 30, 1990, to establish and maintain an intensive protective payee pilot project. The project shall evaluate whether tighter control of the recipient's ADATSA funds by the protective payee can prevent the diversion of assistance for purchasing alcohol and drugs.

(a) The department shall limit project participation to ADATSA recipients in King, Snohomish, or Skagit counties who choose shelter assistance in independent housing.

(b) The department shall choose all project participants by unbiased scientific sampling. Once an applicant/recipient is chosen to participate, the department shall assign a protective payee designated specifically for the pilot project. The recipient shall participate in the project for as long as he or she continues to reside in the project area, remains eligible for ADATSA, and wants shelter assistance in independent housing.

(ii) ~~((The))~~ A shelter recipient in independent housing has the right to request a change of intensive protective payees within the ((project)) county if dissatisfied with the department's selection of a particular intensive protective payee. If the department determines good cause exists for the change, it shall reassign the recipient to another intensive protective payee ((within the pilot project.

(ii) ~~The recipient does not have the right to removal or exemption from the project in order to acquire a less restrictive protective payee.~~

(c) In addition to the responsibilities and authority set forth in subsections (2)(b) and (3) of this section, the project protective payees shall:

(i) Pay all vendors directly for goods or services provided to or for the recipient, including personal and incidental expenses; and

(ii) Make exceptions only where unusual circumstances prevent direct payment and the client is unlikely to divert the money to purchasing alcohol or drugs)) if available.

(5) In the event the recipient and/or protective payee relationship is terminated for any reason, the protective payee shall return any remaining funds to the department.

WSR 89-14-082
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed June 30, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning:

New WAC 388-86-047 Hospice services.
 New WAC 388-87-067 Payment—Hospice services;

that the agency will at 10:00 a.m., Tuesday, August 8, 1989, in the Auditorium, OB-2, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 9, 1989.

The authority under which these rules are proposed is chapter 427, Laws of 1989.

The specific statute these rules are intended to implement is chapter 427, Laws of 1989.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1989.

Correspondence concerning this notice and proposed rules shown below should be addressed to:

Troyce Warner
 Office of Issuances
 Department of Social and Health Services
 Mailstop OB-33H
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 25, 1989. The meeting site is in a location which is barrier free.

Dated: June 28, 1989
 By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.
 Re: Chapters 388-86 and 388-87 WAC.

Purpose: To add hospice as an optional service under the Medicaid program. To provide hospice payment rules.

Reason: Federal and state laws have added hospice as a service of the Medicaid program.

Statutory Authority: RCW 74.08.090.

Summary: Chapter 388-86 WAC adds a rule identifying who is eligible to receive the hospice services, what services are available, and who provides the services; and chapter 388-87 WAC adds a rule on hospice reimbursement payments.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Bobbe Andersen, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-0529.

Rules are proposed by DSHS.

These rules are necessary as a result of a new state law, chapter 427, Laws of 1989.

No economic impact statement is required under the Regulatory Fairness Act.

NEW SECTION

WAC 388-86-047 HOSPICE SERVICES. (1) For the purposes of this section, hospice services means a medically-directed, interdisciplinary program of palliative services for terminally ill recipients and the recipient's families.

(2) Hospice services shall be furnished by a Medicare Title XVIII certified hospice agency.

(3) The department shall authorize hospice services, including:

- (a) Nursing care by or under the supervision of a registered nurse;
- (b) Medical social services under the direction of a physician;
- (c) Physician services performed by a doctor of medicine or osteopathy;
- (d) Counseling services;
- (e) Short-term inpatient care;
- (i) In a participating hospice inpatient unit, participating hospital, skilled nursing facility (SNF); or
- (ii) In an intermediate care facility (ICF) is limited to respite care;
- (iii) When the services conform to a written plan of care; and
- (iv) When the unit, hospital, SNF, or ICF meets the hospice staff and patient area standards.

(f) Medical appliances, medications, and supplies used while the individual is under hospice care;

(g) Home health aide services, under the direction of a registered nurse; or

(h) Physical therapy, occupational therapy, and speech-language pathology services.

(4) The department shall designate the length of hospice services an individual is provided up to a maximum of two hundred ten days.

(5) The department shall pay the Medicaid hospice rate for daily care as:

- (a) Routine home;
 - (b) Continuous home;
 - (c) Inpatient respite; or
 - (d) General inpatient.
- (6) The department shall provide hospice services to a recipient:
- (a) Categorically needy under the Medicaid program;
 - (b) Certified as terminally ill. For this program, an individual is defined as terminally ill if the individual has a medical prognosis that the individual's life expectancy is six months or less;
 - (c) With a caretaker in the residence;
 - (d) Requesting, in writing, hospice care voluntarily in lieu of other medical services, and
 - (e) Accepted by the designated hospice agency.

(7) While receiving hospice care, an individual shall waive all rights to Medicaid payments for:

- (a) Other hospice care a hospice provides, except the hospice designated by the terminally ill patient or arranged by the designated hospice; and
- (b) Medicaid services for treatment of the terminal or related condition for which hospice care is received or for services equivalent to the hospice care, except the services of or arranged by the designated hospice.

NEW SECTION

WAC 388-87-067 PAYMENT—HOSPICE SERVICES. (1) The department shall establish and pay the Medicaid reimbursement rate based on the methodology used in setting Medicare rates for daily care as:

- (a) Routine home;
 - (b) Continuous home;
 - (c) Inpatient respite; or
 - (d) General inpatient.
- (2) The department shall pay prospective rates that vary according to the level of care the individual is furnished.
- (3) Payments to a hospice for inpatient care shall be limited, annually, according to the number of days of inpatient care the Medicaid patients are furnished.
- (4) The department shall include in the reimbursement rates, to a hospice:
- (a) Cost of administrative or supervising physician services;

(b) An additional usual Medicaid reimbursement amount for direct physician care to a hospice patient by an attending physician employed by hospice; and

(c) Nondirect patient care services.

(5) The department shall pay an attending physician not employed by the hospice the usual Medicaid reimbursement amount for direct physician care to a hospice patient.

(6) The department shall establish and pay to the hospice a room and board amount for SNF and ICF residents receiving hospice services within the SNF or ICF. The department shall discontinue Medicaid payments to the SNF or ICF for the hospice patient.

**WSR 89-14-083
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 2817—Filed June 30, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

New WAC 388-86-047 Hospice services.

New WAC 388-87-067 Payment—Hospice services.

I, Leslie F. James, 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 necessary to add hospice as an optional service and to provide hospice payment rules in accordance with chapter 427, Laws of 1989, to be effective July 1, 1989, at 12:01 a.m.

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

This rule is promulgated pursuant to chapter 427, Laws of 1989 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 28, 1989.

By Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-86-047 HOSPICE SERVICES. (1) For the purposes of this section, hospice services means a medically-directed, interdisciplinary program of palliative services for terminally ill recipients and the recipient's families.

(2) Hospice services shall be furnished by a Medicare Title XVIII certified hospice agency.

(3) The department shall authorize hospice services, including:

- (a) Nursing care by or under the supervision of a registered nurse;
- (b) Medical social services under the direction of a physician;

(c) Physician services performed by a doctor of medicine or osteopathy;

(d) Counseling services;

(e) Short-term inpatient care:

(i) In a participating hospice inpatient unit, participating hospital, skilled nursing facility (SNF); or

(ii) In an intermediate care facility (ICF) is limited to respite care;

(iii) When the services conform to a written plan of care; and

(iv) When the unit, hospital, SNF, or ICF meets the hospice staff and patient area standards.

(f) Medical appliances, medications, and supplies used while the individual is under hospice care;

(g) Home health aide services, under the direction of a registered nurse; or

(h) Physical therapy, occupational therapy, and speech-language pathology services.

(4) The department shall designate the length of hospice services an individual is provided up to a maximum of two hundred ten days.

(5) The department shall pay the Medicaid hospice rate for daily care as:

(a) Routine home;

(b) Continuous home;

(c) Inpatient respite; or

(d) General inpatient.

(6) The department shall provide hospice services to a recipient:

(a) Categorically needy under the Medicaid program;

(b) Certified as terminally ill. For this program, an individual is defined as terminally ill if the individual has a medical prognosis that the individual's life expectancy is six months or less;

(c) With a caretaker in the residence;

(d) Requesting, in writing, hospice care voluntarily in lieu of other medical services; and

(e) Accepted by the designated hospice agency.

(7) While receiving hospice care, an individual shall waive all rights to Medicaid payments for:

(a) Other hospice care a hospice provides, except the hospice designated by the terminally ill patient or arranged by the designated hospice; and

(b) Medicaid services for treatment of the terminal or related condition for which hospice care is received or for services equivalent to the hospice care, except the services of or arranged by the designated hospice.

NEW SECTION

WAC 388-87-067 PAYMENT—HOSPICE SERVICES. (1) The department shall establish and pay the Medicaid reimbursement rate based on the methodology used in setting Medicare rates for daily care as:

(a) Routine home;

(b) Continuous home;

(c) Inpatient respite; or

(d) General inpatient.

(2) The department shall pay prospective rates that vary according to the level of care the individual is furnished.

(3) Payments to a hospice for inpatient care shall be limited, annually, according to the number of days of inpatient care the Medicaid patients are furnished.

(4) The department shall include in the reimbursement rates, to a hospice:

(a) Cost of administrative or supervising physician services;

(b) An additional usual Medicaid reimbursement amount for direct physician care to a hospice patient by an attending physician employed by hospice; and

(c) Nondirect patient care services.

(5) The department shall pay an attending physician not employed by the hospice the usual Medicaid reimbursement amount for direct physician care to a hospice patient.

(6) The department shall establish and pay to the hospice a room and board amount for SNF and ICF residents receiving hospice services within the SNF or ICF. The department shall discontinue Medicaid payments to the SNF or ICF for the hospice patient.

WSR 89-14-084

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2824—Filed June 30, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to alcohol detoxification program, amending chapter 388-40 WAC.

I, Leslie F. James, 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 amendments are necessary to establish specific medical incapacity criteria for ADATSA shelter services, and set forth new incapacity criteria for treatment services; reinstate the requirement that shelter clients live in contracted shelter facilities if available; mandate an intensive protective payee system as an alternative to shelter clients when no contracted beds are available; and set priorities for admission to ADATSA treatment. This is in accordance with chapter 18, Laws of 1989 1st ex. sess. to be effective July 1 at 12:01 a.m.

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

This rule is promulgated pursuant to chapter 18, Laws of 1989 1st ex. sess. and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 30, 1989.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-010 ALCOHOLISM AND DRUG DETOXIFICATION PROGRAM—ELIGIBLE PERSONS. (1) Persons eligible for three-day detoxification services for acute alcoholic condition or five-day detoxification services for acute drug addiction shall be:

(a) All grant, medical, and supplemental security income (SSI) beneficiaries; and

(b) ~~((Individuals))~~ Persons whose combined nonexempt income and/or resources do not exceed the aid to families with dependent children (AFDC) payment standards, and who have not transferred resources within two years prior to the date of application without having received adequate consideration according to the provisions of WAC 388-28-461.

(2) The department shall exempt the following resources ~~((shall be exempt))~~ for the alcoholism and drug detoxification program:

(a) A home.

(b) Household furnishings and personal clothing essential for daily living.

(c) Other personal property used to reduce need for assistance or for rehabilitation.

(d) A used and useful automobile.

(3) The department shall not exempt the following resources ~~((are not exempt))~~:

(a) Cash(~~(;)~~);

(b) Marketable securities; and

(c) Any other resource not specifically exempted that can be converted to cash.

(4) The department shall deduct or exempt the following ~~((shall be deducted or exempted))~~ from income:

(a) Mandatory deductions of employment.

(b) Total income and resources of a noninstitutionalized SSI beneficiary.

(c) Support payments paid under a court order.

(d) Payments to a wage earner plan specified by a court in bankruptcy proceedings, or previously contracted major household repairs ~~((if))~~ when failure to make such payments ~~((would))~~ will result in garnishment of wages or loss of employment.

(5) The department shall not require recipients receiving detoxification services ~~((shall not be required))~~ to incur a deductible as a factor of eligibility for the covered period of detoxification.

(6)(a) The department shall determine eligibility for the ~~((alcoholism))~~ detoxification program ~~((shall be determined))~~ on the basis of information shown on the department's application forms.

(b) The department shall require supplemental forms, verification procedures, and/or face-to-face interviews ~~((shall be required))~~ only in cases where there is a specific reason for requiring further verification of eligibility.

(7) When the department is notified within ten working days of the date detoxification began, certification

shall cover this period if all eligibility factors ~~((have been))~~ are met.

(8) The department shall continue the effective period of eligibility ~~((shall be continued))~~ from the date detoxification treatment began through the end of the month in which the three-day or five-day treatment was completed.

(9) Services must meet the following criteria to be paid through the ~~((alcoholism))~~ detoxification program:

(a) Such services must be directly related to detoxification, and

(b) Such services must be performed in a certified detoxification center or a general hospital with certified detoxification facilities.

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-020 ALCOHOLISM AND DRUG ADDICTION TREATMENT AND SUPPORT ACT (ADATSA)—PROGRAM DESCRIPTION. (1) The Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) is a legislative enactment ~~((which provides))~~ providing state-financed treatment and support to indigent alcoholics and drug addicts.

(2) The purpose of ADATSA is to assist in the rehabilitation of those alcoholics and drug addicts who can benefit from ~~((available community))~~ treatment ~~((programs))~~, and to provide a program of shelter services ~~((to meet the basic needs of those who cannot benefit from such programs))~~ for those whose diseases have resulted in incapacitating physiological or cognitive impairments.

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-030 ADATSA SERVICES. (1) The department shall provide ADATSA services provided for by legislative appropriation and only to the extent each service conforms to all conditions and limitations set by the department.

(2) Persons ~~((who qualify))~~ qualifying for the ADATSA program ~~((shall))~~ may be eligible for:

(a) ~~((A continuum of))~~ Alcohol/drug treatment services and support ~~((as))~~ described ~~((in))~~ under WAC 388-40-090(~~(;)~~) and 388-40-095; or

(b) Shelter services ~~((as))~~ described ~~((in))~~ under WAC 388-40-100.

~~((2))~~ (3) ~~((Recipients of))~~ Persons eligible for ADATSA are also eligible for medical care services ~~((as))~~ described ~~((in))~~ under WAC 388-86-120.

AMENDATORY SECTION (Amending Order 2635, filed 6/21/88)

WAC 388-40-040 FINANCIAL ELIGIBILITY REQUIREMENTS. (1) An applicant/recipient (A/R) of ADATSA shall:

(a) Be ~~((at least))~~ eighteen years of age or older,

(b) Be a resident of the state of Washington as defined in WAC 388-26-055 and either a United States citizen or alien who:

(i) Is lawfully admitted for permanent residence; or

(ii) Is otherwise permanently residing in the United States under color of law; or

(iii) Has been granted temporary residency status under the Immigration Reform and Control Act.

(c) Furnish the department with ~~((his or her))~~ the applicant's Social Security number. If the applicant cannot furnish a Social Security number because it has not been issued or is not known, ~~((he or she))~~ the applicant shall apply for a number prior to authorization of assistance. The applicant shall provide the Social Security number to the department upon receipt.

(d) Meet the same income and resource ~~((eligibility requirements))~~ criteria as for the general assistance-unemployable (GA-U) program, except persons excluded from GA-U under WAC 388-37-010 because they are recipients of federal aid may be eligible for ADATSA ~~((residential))~~ treatment services.

(2) ~~((Applicants/recipients))~~ A/Rs placed in an alcohol or drug congregate care facility shall meet the payment and procedural requirements set forth in WAC 388-15-568. However, the department shall not require recipients receiving services in an intensive inpatient alcoholism/drug treatment program of thirty days or less ~~((, as defined in WAC 275-19-020;))~~ to participate in the cost of care.

(3) The department shall require recipients with income in excess of the clothing and personal incidental standard to contribute that excess toward the cost of their care in a recovery house, extended care recovery house, or long-term care or drug residential treatment facility beginning the month following the month of admission. The department shall compute this participation amount according to the rules applicable to the program under which the benefits are received.

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-050 ~~((MEDICAL ELIGIBILITY))~~ INCAPACITY REQUIREMENTS FOR ADATSA TREATMENT. (1) If otherwise eligible, ADATSA ~~((assistance shall))~~ treatment services, within the current appropriation, may be granted to ~~((alcoholics and))~~ an alcoholic or drug addict ~~((s))~~ whose chemical dependency is severe enough to render ~~((them))~~ the applicant incapable of gainful employment.

(2) In order to qualify for ADATSA treatment services, an applicant shall:

(a) Meet the criteria for Psychoactive Substance Dependence In the Diagnostic and Statistical Manual of Mental Disorders (third edition revised), published by the American Psychiatric Association, also referred to below as the DSM III-R, for a psychoactive substance class other than nicotine, either mild, moderate, or severe;

(b) Be incapacitated and unable to work. Incapacity shall exist if the applicant meets one or more of the following:

(i) Is currently pregnant;

(ii) Has been determined incapacitated for the purpose of eligibility for ADATSA shelter within the last six months;

(iii) Currently meets the DSM III-R criteria for severe psychoactive substance dependence and at least one of the following occurred at least thirty-six months before application or twelve months for cocaine dependence:

(A) Diagnosis of severe psychoactive substance dependence by a department-approved chemical dependency treatment program, department designated chemical dependency assessment center, or department-approved DWI assessment center;

(B) Admission to a department-approved alcohol/drug treatment program;

(C) Admission to a department-approved detoxification program; or

(D) Two or more arrests for driving while intoxicated or actual physical control.

(iv) Lost two or more jobs during the last six months due to chemical dependency; or

(v) Has been admitted to a department-approved outpatient treatment program during the last six months and the outpatient treatment provider certifies the treatment recipient is not benefiting from outpatient treatment and needs more intensive chemical dependency treatment service.

(3) Notwithstanding subsection (2) of this section, an applicant meeting the following criteria shall not be eligible for ADATSA treatment when the applicant:

(a) Is not clearly diagnosed as currently dependent on psychoactive substances other than nicotine; or

(b) Has abstained from alcohol and drug use for at least the last ninety days; or

(c) Has been gainfully employed in a job in the competitive labor market at any time during the last thirty days. "Gainfully employed" means performing in a regular and predictable manner an activity for pay or profit. Gainful employment shall not include work in a department-approved sheltered workshop or sporadic or part-time work, if the individual, due to functional limitation, is unable to compete with unimpaired workers in the same job.

(4) A current recipient of ADATSA treatment services successfully participating in outpatient treatment shall continue to be considered to be incapacitated through completion of planned treatment, even if the recipient becomes employed, abstains from alcohol or drug use, or has full or partial remission of psychoactive substance abuse dependence.

(5) Incapacity based on alcoholism or drug addiction shall be determined by a department designated chemical dependency assessment center. The assessment center is the department's sole source of medical evidence required for the diagnosis and evaluation of alcoholism/drug addiction and its effects on employability.

(a) The department shall require such an assessment in writing for all ADATSA applicants.

(b) The costs of assessments needed to determine eligibility shall be paid ~~((for))~~ by the department.

NEW SECTION

WAC 388-40-055 INCAPACITY REQUIREMENTS FOR ADATSA SHELTER. (1) If otherwise

eligible, ADATSA shelter services shall, within the current appropriation, be granted to an alcoholic or drug addict whose chemical dependency has resulted in an incapacitating physiological or cognitive impairment.

(2) In order to meet shelter incapacity standards, an applicant shall meet the following conditions:

(a) Be actively addicted, as determined by the assessment center, "active addiction" for shelter purposes means use of alcohol or drugs by a diagnosed alcoholic or drug addict within the sixty-day period immediately preceding the latest assessment center evaluation; and

(b) Have resulting physiological or organic damage, or have resulting cognitive impairment not expected to dissipate with sixty days of sobriety or detoxification.

(i) In order to qualify on the basis of physical impairment, the physiological or organic damage shall have at least a severity rating of "03" defined under WAC 388-37-110.

(ii) In order to qualify on the basis of cognitive impairment, the applicant shall have at least a moderate impairment of ability to understand, remember, and follow complex instructions, plus an overall moderate impairment in ability to learn new tasks, to exercise judgment and make decisions, and to perform routine tasks without undue supervision.

(3) The diagnosis and severity of the physiological or cognitive impairment must be supported by documented medical evidence from a physician or psychologist.

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-060 **ELIGIBILITY DETERMINATION AND REVIEW—((TIMEFRAMES)) TIME FRAME.** The department shall:

(1) Make a decision confirming or denying eligibility for ADATSA shelter within forty-five days of the date of application, except in circumstances beyond the control of the agency such as failure or delay in securing necessary information or documentation on the part of the applicant.

(2) Redetermine incapacity and financial and medical eligibility for ADATSA shelter at least every six months ((except that those recipients who are receiving only shelter services may have their incapacity reviewed yearly)).

(3) Provide adequate and advance notice of adverse action in accordance with WAC 388-33-376.

AMENDATORY SECTION (Amending Order 2740, filed 12/21/88)

WAC 388-40-080 **ADATSA ASSESSMENT CENTERS—ROLE.** (1) ADATSA assessment centers shall:

(a) Be responsible for diagnostic evaluation and treatment placement; and

(b) Not be responsible for providing direct treatment.

(2) The assessment center shall, in accordance with standards set forth under chapter 275-19 WAC, conduct a face-to-face diagnostic assessment of the applicant to:

(a) Determine if the applicant is chemically dependent;

(b) Determine if the applicant meets incapacity ((based on alcoholism or drug addiction)) standards for treatment under WAC 388-40-050; and

(b) Determine whether the incapacitated applicant is willing ((and)), able, and eligible to undergo a course of ADATSA treatment ((or desires shelter or medical assistance only)).

(3) Once the treatment applicant's financial and medical eligibility is established, the assessment center shall:

(a) Develop an ADATSA treatment plan;

(b) Arrange all placements into ADATSA treatment ((and/or shelter facilities)) taking into account the treatment priorities set forth under WAC 388-40-091;

((fb)) (c) Provide the applicant with written notification of the applicant's right to return to the community service office (CSO) at any time while receiving ADATSA treatment ((or shelter assistance)). This includes, but is not limited to, those situations where the ADATSA recipient is discharged from any inpatient, recovery house, or outpatient((, or shelter)) facility or agency providing services under contract to the department;

((fc)) (d) Provide the applicant with written notification of the applicant's right to request a fair hearing to challenge any action ((which affects)) affecting eligibility for ADATSA treatment ((or shelter assistance));

((fd)) (e) Provide ongoing case monitoring of treatment ((and/or shelter)) services; and

((fe)) (f) Notify the community services office promptly of all placement or eligibility status changes.

AMENDATORY SECTION (Amending Order 2635, filed 6/21/88)

WAC 388-40-090 **ADATSA TREATMENT MODALITIES—DESCRIPTION OF SERVICES, REQUIREMENTS, AND LIMITATIONS.** (1) The department shall offer ADATSA treatment services to eligible ((applicants/recipients)) A/Rs incapacitated by alcoholism or drug addiction, subject to:

(a) Availability defined under WAC 388-40-030(1); and

(b) Priority classifications set forth under WAC 388-40-091.

(2) The department shall limit treatment services to a ((total)) maximum of six months in a twenty-four month period. The twenty-four month period begins on the date of initial entry into treatment.

(3) The assessment center shall determine a course of treatment based on an individual assessment of alcohol/drug involvement, and treatment needs in accordance with RCW 70.96A.100(2) and the procedures ((in)) under WAC 275-19-185.

(4) Treatment may consist of residential and/or outpatient services.

(5) The department shall limit residential treatment to the following services:

(a) Intensive inpatient treatment, not to exceed thirty days per admission;

(b) Recovery house treatment, not to exceed sixty days per admission;

(c) Extended care recovery house treatment, not to exceed ninety days;

(d) Long-term care residential treatment, not to exceed one hundred eighty days;

(e) Drug residential treatment, not to exceed one hundred eighty days.

(6) An ~~((applicant/recipient shall qualify))~~ A/R qualifies for up to ~~((six months))~~ ninety days of direct outpatient treatment services if the assessment center determines ~~((that))~~ residential treatment is not necessary or appropriate. The assessment center shall base this determination on clinical or medical factors ~~((which would indicate))~~ indicating the likelihood ~~((that))~~ of an ~~((applicant/recipient would succeed))~~ A/R's success in a less structured primary treatment modality. Such factors may include an assessment of former treatment history, the number of detoxification admissions, and the chronicity, and degree of incapacity of the ~~((applicant/recipient))~~ A/R. The assessment center shall also consider social factors such as the availability of social support systems, family support, and stable living arrangement when evaluating the individual's ability to benefit from primary outpatient treatment.

(7) No recipient shall receive more than ninety days of ADATSA outpatient treatment in a twenty-four-month period, if referred:

(a) Directly to outpatient treatment, or

(b) Following a residential placement.

(8) ADATSA recipients who withdraw or are discharged from treatment for any reason shall ~~((be subject to termination and shall reapply and/or))~~ be rereferred to the assessment center if ~~((they wish))~~ the recipient wishes further ADATSA treatment services.

(a) ~~((Recipients who drop))~~ A recipient dropping out of treatment in the intensive inpatient phase may be required to repeat this phase.

(b) ~~((Recipients who drop))~~ A recipient dropping out of treatment during the recovery house or outpatient phase may be required to return to the modality from which ~~((they))~~ the recipient dropped out or may be required to enter intensive inpatient treatment if, in the clinical judgment of the assessment center, a more structured form of treatment seems warranted. The assessment center shall refer to inpatient or residential treatment those recipients ~~((who demonstrate))~~ demonstrating an inability to remain abstinent in outpatient treatment.

(c) ~~((Recipients who have been))~~ A recipient absent from inpatient treatment or other residential services for less than seventy-two hours may, at full discretion of the providing program director, reenter that program without being considered as having dropped out and without being required to ~~((reapply))~~ apply for readmittance through the assessment center.

NEW SECTION

WAC 388-40-091 AVAILABILITY OF TREATMENT—PRIORITY GROUPS. (1) The assessment center shall, in assigning residential admissions, give first priority to pregnant women and parents having children in the home. In addition, the assessment center shall provide priority access to ensure residential treatment admissions for:

(a) Persons referred through the children's protective services (CPS) program; and

(b) Intravenous (IV) drug users.

(2) In assigning outpatient admissions, the assessment center shall give first priority to pregnant women and families with children for whom access to Title XIX outpatient treatment is unavailable. In addition, the assessment center shall provide priority access to ensure outpatient admission for:

(a) Persons completing residential treatment; and

(b) Persons referred through CPS; and

(c) Intravenous drug users.

AMENDATORY SECTION (Amending Order 2740, filed 12/21/88)

WAC 388-40-100 ADATSA SHELTER SERVICES. (1) Subject to provisions under WAC 388-40-0301, the department shall provide shelter services to eligible ADATSA ~~((applicants/recipients:~~

~~((a) Who refuse treatment, or~~

~~((b) Who have exhausted their six months of treatment in a twenty-four month period, or~~

~~((c) Who are in temporary need of shelter pending placement into a treatment facility))~~ A/Rs meeting the incapacity criteria under WAC 388-40-055.

(2) ~~((Eligible applicants/recipients wishing shelter services shall have their choice of:~~

~~((a) Placement by the assessment center into a department-contracted shelter facility which provides room and board, or~~

~~((b) A shelter assistance payment, through a protective payee, for independent housing and basic needs))~~ "Shelter services" or "shelter assistance" means shelter for an ADATSA recipient in a facility under contract with the department to provide room and board in a supervised living arrangement, normally in a group or dormitory setting. The department shall limit ADATSA shelter services to shelter assistance in the contracted facilities unless the recipient resides in a county described under subsection (3) of this section.

(3) A recipient residing in a county where no contracted shelter bed is available may receive shelter assistance in independent housing, subject to the following provisions:

(a) The recipient shall, as a condition of continued eligibility, move to a contracted shelter bed when available. "Availability" means the existence of a vacant shelter bed, rather than whether or not a particular A/R is accepted or rejected from a shelter facility based on disciplinary problems;

(b) The recipient shall receive the monthly shelter assistance payment through an intensive protective payee defined under WAC 388-40-110; and

(c) The department shall provide assistance for independent housing only to a recipient~~((s who will be))~~ residing in a permanent residential structure. ~~((These recipients))~~ The recipient must also have a deed of purchase, rental agreement, or other verifiable written agreement between ~~((themselves))~~ the recipient and the person or entity to whom ~~((they are))~~ the recipient is obligated for shelter costs or from whom ~~((they are))~~ the recipient is receiving supplied shelter.

(4) The department shall base the amount of assistance for independent housing and basic needs on the appropriate payment standard in WAC 388-29-100 (3)(a) or (b). For recipients in a contracted shelter facility, the department shall provide an allowance for clothing and personal incidentals based on the standard in WAC 388-29-130.

(5) ~~((Recipients))~~ A recipient receiving contracted shelter services who subsequently leaves shelter without notice for more than seventy-two hours, or ~~((are))~~ is discharged from the facility for disciplinary reasons, shall be subject to termination. ~~((Upon reapplication and/or re-referral, the assessment center shall again offer treatment and/or shelter as appropriate.))~~

(6) A recipient requesting a fair hearing within the advance notice period before termination shall be eligible for continued benefits pending the fair hearing in accordance with WAC 388-33-377. The department shall base the amount of any continued benefits on the amount the recipient was eligible at the time of the fair hearing request. For example, a recipient in independent housing at the time of proposed termination may continue to receive shelter assistance through an intensive protective payee, while a recipient discharged from a shelter facility may continue to receive the clothing and personal incidentals allowance.

AMENDATORY SECTION (Amending Order 2723, filed 11/7/88)

WAC 388-40-110 ADATSA PROTECTIVE PAYEE REQUIREMENTS. (1) The department shall pay the assistance needs of recipients receiving outpatient treatment or shelter assistance ~~((in independent housing))~~ by protective payee or vendor payment. ~~((See WAC 388-33-455 for protective payee selection criteria.))~~

(a) The protective payee for an outpatient recipient shall be the same agency providing outpatient treatment.

(b) The protective payee for a shelter recipient in independent housing shall be an agency under contract with the department to provide intensive protective payee services described under subsection (3) of this section; and

(c) The protective payee for a shelter recipient residing in a contracted shelter facility shall be the facility operator. The facility operator shall have the authority to use personal discretion on the method of disbursing the recipient's clothing and personal incidental money each month.

~~((An ADATSA))~~ The protective payee for an outpatient recipient shall have the authority and responsibility to make decisions about the expenditure of outpatient treatment stipends ((or shelter assistance)). Disbursement of funds shall be made first to assure the basic needs of shelter, utilities, food, clothing, and personal incidentals are met.

(a) The protective payee for a recipient in outpatient treatment shall encourage the recipient to participate in the decision-making process as a means of developing good money management, budgeting, and decision-

making skills. The amount of control or latitude exercised shall depend upon the recipient's status in treatment and the judgment of the protective payee as to how responsible the recipient has become.

~~((The protective payee for a shelter assistance recipient shall first disburse a payment for shelter and utilities, such as a check directly to the landlord, mortgage company, utility company, etc.~~

~~((3))~~ The outpatient protective payee may use ((his or her)) discretion on the method of disbursing to the recipient any cash balance remaining from the recipient's monthly assistance warrant. The protective payee has the authority to apportion any remaining funds to the recipient at regular intervals throughout the month.

(3) The intensive protective payee for a shelter recipient shall provide case management services as well as sufficient control of monthly shelter expenditures as necessary assuring the recipient's basic needs are met and preventing the diversion of assistance toward purchase of alcohol or drugs. The intensive protective payee shall:

(a) First disburse a payment for shelter and utilities, such as a check directly to the landlord, mortgage company, utility company, etc.;

(b) Pay all vendors directly for goods or services provided to or for the recipient, including personal and incidental expenses; and

(c) Make exceptions only where unusual circumstances prevent direct payment and the recipient is unlikely to divert the money to purchasing alcohol or drugs.

~~((In the event the recipient and/or protective payee relationship is terminated for any reason, the protective payee shall return any remaining funds to the department.~~

~~((5) The department has legislative authority, through June 30, 1990, to establish and maintain an intensive protective payee pilot project. The project shall evaluate whether tighter control of the recipient's ADATSA funds by the protective payee can prevent the diversion of assistance for purchasing alcohol and drugs.~~

~~((a) The department shall limit project participation to ADATSA recipients in King, Snohomish, or Skagit counties who choose shelter assistance in independent housing.~~

~~((b) The department shall choose all project participants by unbiased scientific sampling. Once an applicant/recipient is chosen to participate, the department shall assign a protective payee designated specifically for the pilot project. The recipient shall participate in the project for as long as he or she continues to reside in the project area, remains eligible for ADATSA, and wants shelter assistance in independent housing.~~

~~((i))~~ ((The)) A shelter recipient in independent housing has the right to request a change of intensive protective payees within the ((project)) county if dissatisfied with the department's selection of a particular intensive protective payee. If the department determines good cause exists for the change, it shall reassign the recipient to another intensive protective payee ((within the pilot project.

~~((ii) The recipient does not have the right to removal or exemption from the project in order to acquire a less restrictive protective payee.~~

~~(c) In addition to the responsibilities and authority set forth in subsections (2)(b) and (3) of this section, the project protective payees shall:~~

~~(i) Pay all vendors directly for goods or services provided to or for the recipient, including personal and incidental expenses, and~~

~~(ii) Make exceptions only where unusual circumstances prevent direct payment and the client is unlikely to divert the money to purchasing alcohol or drugs)) if available.~~

(5) In the event the recipient and/or protective payee relationship is terminated for any reason, the protective payee shall return any remaining funds to the department.

WSR 89-14-085
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2827—Filed June 30, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to social services for families, amending chapter 388-15 WAC.

I, Leslie F. James, 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 amendments are necessary to obtain administrative authority for implementation of the Medicaid personal care program effective July 1, 1989, at 12:01 a.m.

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

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

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.

APPROVED AND ADOPTED June 30, 1989.

By Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-15-810 MEDICAID PERSONAL CARE SERVICES—LEGAL BASIS—PURPOSE. (1) *Legal authority for Medicaid personal care services program is found under RCW 74.09.520 and in the Medicaid state plan.*

(2) *The purpose of the Medicaid personal care services program is to enable eligible individuals to remain in community residences through the provision of semi-skilled maintenance or supportive services.*

NEW SECTION

WAC 388-15-820 MEDICAID PERSONAL CARE SERVICES—DEFINITIONS. (1) "Applicant" means a person who applied for Medicaid personal care services.

(2) "Client" means a person determined eligible for Medicaid personal care services.

(3) "Community Residence" means:

(a) The client's own home, whether in a building owned or rented by the client;

(b) A licensed adult family home under department contract;

(c) A licensed boarding home under department contract;

(d) A licensed children's foster family home under department contract; or

(e) A licensed group care family under department contract.

(4) "Direct personal care services" means assistance with tasks involving direct client care which are directly related to the client's medical condition. Such assistance is limited to allowable help with the tasks listed under subdivision (a) of this subsection. The type of help allowable for each task shall not include assistance that must be provided only by a licensed health professional.

(a) "Personal hygiene" means assistance with care of hair, teeth, dentures, shaving, filing of nails, other basic personal hygiene, and grooming needs. Personal hygiene includes supervising client when performing the tasks, assisting client when caring for own appearance, and performing grooming tasks for client when unable to care for own appearance.

(b) "Dressing" means assistance with dressing and undressing. Dressing includes supervising and guiding client when client is dressing and undressing, assisting with difficult tasks such as tying shoes and buttoning, and completely dressing or undressing client when unable to participate in dressing or undressing self.

(c) "Bathing" means assisting client to wash self. Bathing includes supervising client who can bathe self when guided, assisting client with difficult tasks such as getting in or out of the tub or washing back, and completely bathing the client if totally unable to wash self.

(d) "Eating" means assistance with eating. Eating includes supervising client when able to feed self if guided, assisting with difficult tasks such as cutting food or buttering bread, and feeding the client when unable to feed self.

(e) "Toileting" means assistance with bladder or bowel problems. Toileting includes supervising the client when able to care for own toileting needs if guided, helping client to and from the bathroom, assisting with bedpan routines, diapering and lifting client on and off the toilet. Toileting may include performing routine peri/colostomy/catheter tasks, for the client when client is able to supervise the activities.

(f) "Ambulation" means assisting the client to move around. Ambulation includes supervising the client when walking alone or with the help of a mechanical device such as a walker if guided, assisting with difficult parts of walking such as climbing stairs, supervising the client

if client is able to propel a wheelchair if guided, pushing the wheelchair, and providing constant physical assistance to the client if totally unable to walk alone or with a mechanical device.

(g) "Transfer" means assistance with getting in and out of a bed or wheelchair or on and off the toilet or in and out of the bathtub. Transfer includes supervising the client when able to transfer if guided, providing steady-ing, and helping the client when client assists in own transfer. Lifting the client when client is unable to assist in their own transfer requires specialized training.

(h) "Positioning" means assisting the client to assume a desired position. Positioning includes assistance in turning and positioning to prevent secondary disabilities, such as contractures and balance deficits.

(i) "Self-medication" means assisting the client to self-administer medications prescribed by attending physician. Self-medication includes reminding the client of when it is time to take prescribed medication, handing the medication container to the client, and opening a container.

(j) "Body care" means assisting the client with exercises, skin care including the application of ointments or lotions, changing dry bandages or dressings not requiring professional judgment. Body care excludes foot care beyond washing of feet and filing toenails. Body care excludes foot care for clients who are diabetic or have poor circulation. Body care excludes changing bandages or dressings when sterile procedures are required. Provision of body care tasks is limited. The client must be able to supervise the provision of these tasks.

(k) "Travel to medical services" means accompanying or transporting the client to a physician's office or clinic in the local area to obtain medical diagnosis or treatment.

(l) "Essential shopping" means assistance with shopping to meet the client's health care or nutritional needs. Limited to brief, occasional trips in the local area to shop for food, medical necessities, and household items required specifically for the health and maintenance of the client. Essential shopping includes assisting when the client can participate in shopping and doing the shopping when the client is unable to participate.

(5) "Handicapping condition" means a medical condition which is a primary diagnosis by a physician, and causes a functional impairment in activities of daily living.

(6) "Household assistance" means assistance with incidental household services provided as an integral, but subordinate part of the personal care furnished directly to the client. Household assistance shall be considered an integral part of personal care when such assistance is directly related to a medical condition or to a service reflected in the client's service plan and is furnished along with a direct personal care service. The department shall not authorize household assistance as a Medicaid personal care task in an adult family home, licensed boarding home, children's foster family home, or children's group care facility.

(a) "Meal preparation" means assistance with preparing meals. Meal preparation includes planning meals including special diets, assisting clients able to participate

in meal preparation, preparing meals for clients unable to participate, and cleaning up after meals. This task may not be authorized to just plan meals or clean up after meals. The client must need assistance with actual meal preparation.

(b) "Laundry" means washing, drying, ironing, and mending clothes and linens used by the client or helping the client perform these tasks.

(c) "Housework" means performing or helping the client perform those periodic tasks required to maintain the client in a safe and healthy environment. Activities performed include such things as cleaning the kitchen (does not include washing dishes) and bathroom, sweeping, vacuuming, mopping, cleaning the oven, and defrosting the freezer, shoveling snow. Washing inside windows and walls is allowed, but is limited to twice a year.

(d) "Splitting/stacking/carrying wood" means splitting wood for the client and used as the sole source of fuel for heating and/or cooking. This task is limited to splitting wood the client has at own home.

(7) "Immediate family member" means the client's husband or wife, parent, or child.

(8) "Medicaid personal care services" means medical-ly-oriented tasks, directed at the client or the client's immediate environment, that are necessitated by a client's handicapping condition. Such services shall be:

(a) Based on an assessment of applicant/client needs;

(b) Provided in conformance with a service plan ordered by the client's attending physician;

(c) Reviewed by a registered nurse at least every ninety days;

(d) Performed by qualified and trained personal care aides, excluding members of the client's immediate family.

(9) "Medically-oriented tasks" means direct personal care services, household assistance provided as an integral but subordinate part of the personal care furnished directly to the client, and supervision.

(10) "Personal care aide" means a person meeting the qualification and training requirements established by the department and providing direct personal care services to clients. This person may be an employee of a qualified agency provider or may be under contract as a qualified individual provider.

(11) "Personal care provider" means a qualified agency provider or a qualified individual provider under department contract to provide Medicaid personal care services.

(12) "Personal care service plan" means a plan which is:

(a) Developed by the department in cooperation with appropriate community agency staff;

(b) Written and describes the personal care services which will be provided, frequency of provision, and expected outcomes;

(c) Ordered by the client's attending physician.

(13) "Physician" means a doctor of medicine, osteopathy or podiatry, as defined under WAC 388-80-005(54), or the client's Christian Science practitioner.

(14) "Physician's order" means written approval by the client's attending physician of the specific personal services to be provided to the client.

(15) "Qualified agency provider" means a community agency which applied for licensing as a home care agency or home health agency.

(16) "Qualified individual provider" means a person meeting the individual provider qualifications established by the department.

(17) "Supervision" means being available to:

(a) Help the client with personal care tasks that cannot be scheduled (toileting, ambulation, transfer, positioning, some medication assistance); and/or

(b) Provide protective supervision to a client who cannot be left alone because of confusion, forgetfulness, or lack of judgment.

The department shall not authorize supervision as a Medicaid personal care task in an adult family home, licensed boarding home, children's foster family home, or children's group care facility.

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

NEW SECTION

WAC 388-15-830 MEDICAID PERSONAL CARE SERVICES—ELIGIBILITY. (1) The department shall provide Medicaid personal care services to an individual:

(a) Financially eligible; that is, certified as a Title XIX eligible categorically needy medical assistance client under WAC 388-82-010 and 388-82-115; and

(b) Programmatically eligible; that is, due to a handicapped condition, is determined to need Medicaid personal care services to remain in a community residence; and

(c) Residing in own residence, in a licensed and contracted adult family home, a licensed boarding home under department contract, a children's foster family home, or a children's group care facility; and

(d) With a physician's order approving provision of specific personal care services.

(2) Eligibility shall begin upon date of the department's service authorization.

(3) The department shall not authorize chore services or adult family home add-on services to an individual qualifying for Medicaid personal care service when the individual's service needs are met within the scope of the Medicaid personal care program.

NEW SECTION

WAC 388-15-840 MEDICAID PERSONAL CARE SERVICES—ASSESSMENT—AUTHORIZATION. (1) The department shall provide an assessment of individuals applying for, or being referred for, Medicaid personal care services.

(2) The department shall use the approved assessment form in an interview with the applicant documenting:

(a) The applicant's functional capability to perform personal care tasks essential to health or safety;

(b) Current and potential care contributions by formal and informal supports available to the applicant;

(c) The applicant's preference for how care is provided.

(3) When children are assessed, the assessor shall consider the personal care applicant's age in determining if the degree of personal care needed is appropriate to the child's age, or the result of the applicant's functional impairment. The need for personal care services shall only be assessed for needs exceeding the level of age appropriate personal care.

(4) Assessment and reassessment shall be performed within the department-established time frames.

(5) The department shall be responsible for authorizing Medicaid personal care services.

(6) The number of hours authorized shall be based on the applicant/client's need for assistance with Medicaid personal care tasks as determined through the assessment process. Points shall be awarded for each task according to the degree of assistance needed, and the point total shall be converted into maximum allowable hours. The procedure for conversion of points to hours of service shall comply with WAC 388-15-212(7).

(7) The client's attending physician shall review and reauthorize the client's service plan at least once every six months.

NEW SECTION

WAC 388-15-850 MEDICAID PERSONAL CARE SERVICES—NURSE OVERSIGHT. (1) A registered nurse shall visit the client at least once every ninety days to:

(a) Review the client's medical and/or mental condition;

(b) Review the service plan determining if revisions are required and, if so, recommend revisions;

(c) Review the client's need for continued care;

(d) Assess the quality of personal care services received;

(e) Assess the personal care provider's need for additional training.

(2) The registered nurse shall document the result of an oversight visit on the department-prescribed form.

NEW SECTION

WAC 388-15-860 MEDICAID PERSONAL CARE SERVICES—PERSONAL CARE AIDE QUALIFICATIONS. (1) The department shall:

(a) Define minimum qualifications for personal care aides and require aides meet the qualifications;

(b) Define minimum orientation and training requirements for personal care aides and require documentation stating minimum requirements are met;

(c) Definitions for minimum qualifications and training requirements for personal care aides shall be contained in the department's field manual for Medicaid personal care.

NEW SECTION

WAC 388-15-870 MEDICAID PERSONAL CARE SERVICES—SERVICE PROVISION SYSTEM. (1) Area agencies on aging shall contract with qualified agency providers to perform Medicaid personal care services at the department-established rate.

(2) Area agencies on aging shall provide or contract for registered nurse oversight for personal care services.

(3) The department shall contract with area agencies on aging to assume the above responsibilities.

(4) The department shall contract with qualified individual providers to perform Medicaid personal care services at the department-established rate.

(5) Agency providers shall deliver services to clients in the clients' own residences unless the personal care service plan exceeds eighty-five hours per month. Clients shall have freedom of choice in selecting a qualified agency provider.

(6) Individual providers under contract with the department shall deliver services to clients in the clients' own residence when the personal care service plan exceeds eighty-five hours per month. Clients shall have freedom of choice in selecting a qualified individual provider.

(7) Adult family home (AFH) sponsors or licensed boarding home staff shall provide services to clients in an AFH or licensed boarding home. Foster parents or group care facility staff shall provide services to children in a foster family home or group care facility. Clients shall have freedom of choice in selecting a licensed AFH or boarding home, provided the AFH or boarding home can meet their personal care needs.

NEW SECTION

WAC 388-15-880 PAYMENT AND AUTHORIZATION. Payment and authorization.

(1) In the individual provider program, the department pays an hourly wage directly to the service provider. No in-home personal care service plans shall authorize services by an individual provider unless the service need exceeds eighty-five hours per month.

(2) In the contracted program, the department pays the contractor who pays the service provider.

(3) The department pays an hourly rate of five dollars and thirty-six cents for actual hours worked in providing Medicaid personal care services.

(4) No contractor shall pay service providers performing Medicaid personal care services less than five dollars and fifteen cents per hour.

(5) Authorizations for in-home Medicaid personal care services shall not exceed seven hundred seventy-two dollars and ten cents per month.

(6) Authorizations for Medicaid personal care in an adult family home shall not exceed sixty hours of service per month.

(7) Authorizations for Medicaid personal care in a licensed boarding home under department contract shall not exceed thirty hours per month.

(8) Payment shall not be made for services provided exceeding the department's authorization.

**WSR 89-14-086
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 2828—Filed June 30, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to social services for families, amending chapter 388-15 WAC.

I, Leslie F. James, 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 amendments are necessary to be consistent with the new Medicaid personal care services program and with Washington Administrative Code amendments adopted on an emergency basis on May 1, 1989. These rules are to be effective July 1, 1989, at 12:01 a.m.

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

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

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.

APPROVED AND ADOPTED June 30, 1989.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2674, filed 8/17/88)

WAC 388-15-207 CHORE SERVICES FOR ADULTS—LEGAL BASIS—PURPOSE—GOALS. (1) The legal basis for the chore services program is RCW 74.08.530 through 74.08.570.

(2) The purpose of the program is to assist an eligible applicant((s)) at risk of being placed in a ((residential)) long-term care facility by providing allowable chore service((s)) tasks that may allow the eligible applicant((s)) to remain in or return to ((his or her own)) the applicant's home whenever possible.

(3) The department shall limit goals for chore services for adults to those specified in WAC 388-15-010 (1)(b) and (d). Also see WAC 388-15-010(2).

AMENDATORY SECTION (Amending Order 2674, filed 8/17/88)

WAC 388-15-209 CHORE SERVICES—ELIGIBLE INDIVIDUALS. (1) Service eligibility. Adults eligible for chore services shall be:

(a) Eighteen years of age and over,

(b) At ((higher)) risk of ((residential)) long-term care facility placement as evidenced by the need ((of))

for assistance with one or more personal care or related tasks defined in WAC ~~((388-15-208(9)))~~ 388-15-820 as determined by completion and scoring of the ~~((CRQ))~~ assessment form;

~~((c))~~ ~~((At risk of residential care placement and unable to perform one or more activities essential to daily living and are in social and economic need as evidenced by one or more of the following:~~

- ~~((i))~~ ~~Seventy-five years of age or over;~~
- ~~((ii))~~ ~~Homebound;~~
- ~~((iii))~~ ~~Chronic physical health problems;~~
- ~~((iv))~~ ~~Chronic mental health problems;~~
- ~~((v))~~ ~~Confused;~~
- ~~((vi))~~ ~~Socially isolated; and~~
- ~~((vii))~~ ~~Living alone.~~

~~((d))~~ Authorized the amount of chore services as determined by the ~~((CRQ))~~ assessment;

~~((e))~~ ~~((d))~~ Authorized payment for a maximum of one hundred sixteen hours per month of task-related services listed in the ~~((CRQ))~~ assessment;

~~((f))~~ ~~((e))~~ Authorized services and department payment only when relatives, friends, nonprofit organizations, or other persons are not available or willing to provide the service without ~~((change))~~ charge;

~~((g))~~ ~~((f))~~ Referred to the volunteer chore service program, prior to approval of services by department paid providers when ~~((aged sixty or over and))~~ eligible for five hours per month or less of service;

~~((h))~~ ~~((g))~~ Referred to the volunteer chore service program, when ~~((aged sixty or over, are))~~ not eligible for chore services because of income or need level~~((;))~~ or ~~((are))~~ eligible for a reduced level of service because of income, where such program exists, for needed hours of service not ~~((provided))~~ authorized by the department.

(2) Financial eligibility.

(a) To be eligible to receive chore services, an applicant shall meet the financial eligibility requirements established by the department.

(b) An adult determined to be at high risk or at risk of being placed in a ~~((residential))~~ long-term care facility is eligible to receive ~~((the level of))~~ hourly chore services ~~((as determined by WAC 388-15-212 if a recipient of))~~ provided the applicant or client:

~~((i))~~ ~~((Supplemental Security Income and/or state supplementation, or))~~ Has resources at or below ten thousand dollars for one person or fifteen thousand dollars for a two-person family. Allow another one thousand dollars for each additional family member.

~~((ii))~~ ~~((Limited casualty program medical care as defined by RCW 74.09.010 at time of eligibility determination; or~~

~~((iii))~~ Has gross income, adjusted for family size, at or below thirty percent of the state median income) Is not eligible for Medicaid personal care, community options program entry system services, or other duplicative payment services.

(c) Adult protective service clients determined to be at high risk or at risk of being placed in a ~~((residential))~~ long-term care facility are eligible to receive chore services without regard to income or resources, if these services are an integral but subordinate part of the adult protective services plan. These services shall be provided

only until the situation necessitating the services has stabilized and are limited to a maximum of ninety days during any twelve-month period.

~~((d))~~ An adult applicant or client with a gross income, adjusted for family size, at or below thirty percent of the state median income shall receive chore services with no reduction in hours.

~~((e))~~ An adult applicant or client with a gross income over thirty percent of the state median income ~~((SMI))~~ adjusted for family size, and determined to be at high risk or at risk of being placed in a residential care facility ~~((receives))~~ shall receive a reduced level of hours. The department shall determine the reduced level by:

(i) Deducting one hour of chore services for each percentage point by which the client's income exceeds thirty percent of the SMI; and

(ii) Deducting an additional hour of service for each percentage point by which the client's income exceeds fifty percent of the SMI.

~~((f))~~ ~~Clients or applicants shall not be eligible for chore services if they have resources in excess of ten thousand dollars for one person or fifteen thousand dollars for a two-person family. Allow another one thousand dollars for each additional family member.)~~

~~((g))~~ The department shall consider the following resources in determining the value of a client's or applicant's resources:

- (i) Checking accounts;
- (ii) Savings accounts;
- (iii) Certificates of deposit;
- (iv) Money markets;
- (v) Negotiable stocks and bonds;
- (vi) Latest assessed value of lots or property not attached to residence;
- (vii) Market value of a boat or boats, recreational vehicle or vehicles, or excess automobiles;
- (viii) Liquid assets: Such as cash, gold, silver, and other items of an investment and negotiable nature;

(ix) Resources received in transfer or assignment from a spouse under WAC 388-92-043(5) ~~((are))~~ available to the applicant/client as a single-person household and subject to WAC 388-15-209 (2)(e) and (f).

~~((f))~~ ~~((g))~~ The department shall not consider the following resources, regardless of value, in determining the value of a client's or applicant's resources:

(i) A home and lot normal for the community where the client or applicant resides;

(ii) Used and useful household furnishings, personal clothing, and one automobile per client;

(iii) Personal property of great sentimental value;

(iv) Real or personal property used by the applicant or client to earn income or ~~((to rehabilitate himself or herself))~~ for rehabilitation;

(v) One cemetery plot for each member of the family unit;

(vi) Cash surrender value of life insurance;

(vii) Payments received as restitution payments under the Civil Liberties Act of 1988 and the Aleutian and Pribiloff Island Restitution Act, P.L. 100-383.

~~((f))~~ ~~Continuing eligibility for attendant care for adults and supervision of children.~~

~~(a) The department shall no longer authorize attendant care for adults and supervision of children after March 31, 1988. The department shall provide services for persons applying on or after April 1, 1988, based on eligibility as determined in WAC 388-15-209 (1) and (2).~~

~~(b) Clients receiving attendant care and/or supervision of children prior to April 1, 1988, shall continue to be eligible to receive services.~~

~~(c) The department shall make periodic reviews to determine continuing need for and/or eligibility according to the following rules which were in effect prior to April 1, 1988:~~

~~(i) Authorize attendant care service for clients receiving attendant care prior to April 1, 1988, and requiring assistance with such unscheduled tasks as toileting, ambulation, and wheelchair transfer or protective supervision;~~

~~(ii) Authorize protective supervision when persons may hurt themselves, others, or damage property if left alone, or confused and may wander, or becomes easily disoriented;~~

~~(iii) Base the amount of service authorized on the total number of hours per day the chore service provider must be with a client. The chore service provider performs necessary household or personal care tasks or assists with activities of daily living during the authorized attendant care hours;~~

~~(iv) Authorize supervision of children only when the client is temporarily absent from the home because of hospitalization and all possible resources have been explored to provide the necessary supervision. This absence shall not exceed two weeks during any six-month period. The number of days and the number of hours per day that the children need supervision is recorded. The chore service provider performs household and personal care tasks for the children during the hours of supervision;~~

~~(v) The client shall provide verification of the need for attendant care by producing a statement from the client's physician.~~

~~(d) The department shall pay a daily rate for attendant care for adults and supervision of children. The rate shall not exceed the lesser of the following, a maximum of twenty-four dollars and fifty cents per day or the amount determined by the table as follows:~~

DAILY RATE DETERMINATION

HOURS OF SERVICE PER DAY	PAYMENT PER DAY
21 - 24	up to \$ 24.50
16 - 20	up to \$ 22.50
12 - 15	up to \$ 20.50
8 - 11	up to \$ 17.50
4 - 7	up to \$ 12.50
1 - 3	up to \$ 8.50

The department shall add up to five dollars per day for each additional client authorized for service in the household.

~~(i) The department shall pay a reduced amount equivalent to the individual provider program hourly~~

~~rate when the client's income exceeds thirty percent SMF.~~

~~(ii) The department shall not pay for services when the client is not in the home, for example, because of hospitalization. If necessary, however, up to seven days during the service month may be provided to enable the client to return home.~~

~~(c) An attendant care client may request approval from the department to exceed the maximum daily rate set by the department. The department shall authorize a higher payment rate necessary to maintain the client in their own home when:~~

~~(i) The need for the higher payment is specific and clearly measurable; and~~

~~(ii) The client provides documentation that services are not available at the established maximum payment rate; and~~

~~(iii) The client has made a reasonable effort to find a qualified provider at the established maximum payment rate; and~~

~~(iv) The total cost for attendant care services shall not exceed the lesser of the following, a maximum of thirty-one dollars and fifty cents per day, or the amount determined by the table as follows:~~

HOURS OF SERVICE PER DAY	ADDITIONAL PAYMENT PER DAY
21 - 24	up to \$7
16 - 20	up to \$6
12 - 15	up to \$5
8 - 11	up to \$4
4 - 7	up to \$3
1 - 3	up to \$2

~~(f) The department shall inform all clients in writing of the process as defined in subsection (3)(c) of this section. Clients shall have the right to request approval from the department to exceed the maximum daily rate.~~

~~(g) When the department denies a request to exceed the maximum payment rate or makes approval at a lesser rate than requested by the client, the client shall receive notice of the right to contest the decision pursuant to chapter 388-08 WAC. The department shall approve or deny requests within thirty days.~~

~~(h) When providing board and room or meals for the chore service provider is an extra cost to the client, the department may make a payment to partially reimburse the cost of this expense. The department shall not reimburse such costs for a spouse provider. The payment shall not exceed an allowance established by the department and shall be prorated by days of service.~~

~~(i) The department shall pay only after the department verifies service delivery.~~

~~(4) Continuing eligibility for family care services.~~

~~(a) The department shall no longer authorize family care after March 31, 1988. Applicants applying on or after April 1, 1988, shall be provided services based on eligibility as determined in WAC 388-15-209 (1) and (2).~~

~~(b) Clients receiving family care services prior to April 1, 1988, shall continue to be eligible to receive services.~~

~~(c) The department shall make periodic reviews to determine continuing need and/or eligibility for family care services according to the following rules which were in effect prior to April 1, 1988. Families may receive services when the client is the normal caretaker of the children, and:~~

~~(i) Is in the home but unable to physically care for the children;~~

~~(ii) Is in the home and physically unable to perform the necessary household tasks, or~~

~~(iii) Is out of the home temporarily, as defined by the department, and~~

~~(iv) Children and family services confirms all possible resources have been explored and no one can or will provide the necessary care.~~

~~(d) For families to receive services, the total family income shall be at or below the financial eligibility requirements established by the department. Minor children shall not be financially eligible in their own right. The minor children are part of the family unit.~~

~~(e) The family care questions take into consideration the ages, number, level of responsibility of the children, and the presence of a spouse when determining the need for chore services.~~

~~(i) Family housework determines the need for additional help cleaning the household because of the presence of children.~~

~~(ii) Family tasks determines the need for escort and transportation, laundry services, meal preparation and shopping, and bathing and dressing for the client's children.~~

~~(iii) Supervision of children determines the need for physical supervision of the children when the client is in the home, but unable to supervise them.~~

~~(iv) The total scoring for subsection (4)(c)(i), (ii), and (iii) are N = 0, M = 14, S = 27, and T = 40.~~

~~(f) The chore services provider may not act as a parent substitute or make major decisions affecting the children.)~~

AMENDATORY SECTION (Amending Order 2625, filed 5/17/88)

WAC 388-15-215 LIMITATIONS ON PROGRAM. (1) The department shall not pay for chore services for teaching or companionship purposes.

(2) Chore services shall not be used for the purpose of delivering skilled nursing care or developing social, behavioral, recreational, communication, or other types of skills.

(3) The department shall not provide chore services to a resident or provider in:

- (a) A group home,
- (b) Licensed boarding home,
- (c) Congregate care facility,
- (d) Intermediate care facility,
- (e) Skilled nursing facility,
- (f) Hospital,
- (g) Institution,
- (h) Adult family home, or
- (i) Child foster home.

Shared living arrangements are not considered group homes.

(4) The department shall provide chore services for the person needing and authorized to receive the service, but not for other household members unless they also meet the eligibility criteria for the service.

(5) The department shall not provide chore services when community resources or family, neighbors, friends, or volunteers are available and willing to provide the service without charge.

~~(6) ((The department shall not authorize or re-authorize chore services for an applicant or client who is eligible to receive community options program entry system funding or other duplicative services payment.~~

~~(7))~~ (7) The department shall not pay for chore services for hourly care clients when the clients are not residing at home, for example, because of hospitalization. In an emergency, however, the department may pay for limited services to enable the client to return home.

~~((8))~~ (7) The department shall periodically re-evaluate all approvals for additional hours. The department shall continue, deny, or alter services to correspond with the client's present chore services need. The department shall send the client a notice of the right to contest denials of service or approval of fewer service hours than previously approved.

~~((9))~~ (8) The department shall not pay for chore services for child care for working ~~((parent(s)))~~ parent.

(9) The department shall terminate chore services for an hourly personal care client if, after periodic review, the client needs assistance with household tasks only.

NEW SECTION

WAC 388-15-216 GRANDPARENTED CLIENTS. (1) Continuing eligibility for hourly care chore service clients:

(a) The department may continue providing hourly chore services for those clients who were receiving assistance only with household tasks before December 14, 1987, provided those clients were receiving this same services as of June 30, 1989; and

(b) The department shall perform periodic reviews to determine continuing need for and/or eligibility according to the rules in effect before December 14, 1987:

(i) If household tasks only clients need assistance with personal care, authorize Medicaid personal care if eligible for Medicaid funding. If not eligible for Medicaid personal care, authorize chore services according to the eligibility requirements for new clients;

(ii) If more or less household task services are required, authorize services accordingly.

(2) Continuing eligibility for attendant care for adults and supervision of children.

(a) The department may continue providing chore services to clients who were receiving attendant care and/or supervision of children prior to April 1, 1988, provided those clients were receiving the same services as of June 30, 1989.

(b) The department shall make periodic reviews to determine continuing need for and/or eligibility according to the following rules which were in effect prior to April 1, 1988:

(i) Authorize attendant care service for clients receiving attendant care prior to April 1, 1988, who continue

to need assistance with such unscheduled tasks as toileting, ambulation, and transfer or who need protective supervision;

(ii) Authorize protective supervision when persons may hurt themselves, others, or damage property if left alone, or are confused and may wander, or become easily disoriented;

(iii) Base the amount of service authorized on the total number of hours per day the chore service provider must be with a client. The chore service provider performs necessary household or personal care tasks or assists with activities of daily living during the authorized attendant care hours;

(iv) Authorize supervision of children only when the client is temporarily absent from the home because of hospitalization and all possible resources have been explored to provide the necessary supervision. This absence shall not exceed two weeks during any six-month period. The number of days and the number of hours per day that the children need supervision is recorded. The chore service provider performs household and personal care tasks for the children during the hours of supervision;

(v) The client shall provide verification of the need for attendant care by producing a statement from the client's physician.

(c) The department shall pay a daily rate for attendant care for adults and supervision of children. The rate shall not exceed the lesser of the following, a maximum of twenty-four dollars and fifty cents per day or the amount determined by the table as follows:

DAILY RATE DETERMINATION

HOURS OF SERVICE PER DAY	PAYMENT PER DAY
21 - 24	up to \$ 24.50
16 - 20	up to \$ 22.50
12 - 15	up to \$ 20.50
8 - 11	up to \$ 17.50
4 - 7	up to \$ 12.50
1 - 3	up to \$ 8.50

The department shall add up to five dollars per day for each additional client authorized for service in the household.

(i) The department shall reduce the amount of payment by the individual provider program hourly rate when the client's income exceeds thirty percent of the SMI.

(ii) The department shall not pay for services when the client is not in the home, for example, because of hospitalization. If necessary, however, up to seven days during the service month may be provided to enable the client to return home.

(d) The department shall not approve a waiver or exception to policy for a rate higher than the maximum base attendant care daily rate after June 30, 1989. The department shall not increase payment for a client who has an approved waiver and/or exception to policy as of June 30, 1989, to exceed the maximum daily rate set by the department.

(e) When providing board and room or meals for the chore service provider is an extra cost to the client, the department may make a payment to partially reimburse the cost of this expense. The department shall not reimburse such costs for a spouse provider. The payment shall not exceed an allowance established by the department and shall be prorated by days of service.

(f) The department shall pay only after the department verifies service delivery.

(3) Continuing eligibility for hourly family care services.

(a) Clients receiving hourly family care services before April 1, 1988, may continue to be eligible to receive services provided they were receiving the same services as of June 30, 1989.

(b) The department shall make periodic reviews to determine continuing need and/or eligibility for family care services according to the following rules which were in effect prior to April 1, 1988. Families may receive services when the client is the normal caretaker of the children, and:

(i) Is in the home but unable to physically care for the children;

(ii) Is in the home and physically unable to perform the necessary household tasks; or

(iii) Is out of the home temporarily, as defined by the department; and

(iv) The division of children and family services confirms all possible resources have been explored and no one can or will provide the necessary care.

(c) For families to receive services, the total family income shall be at or below the financial eligibility requirements established by the department. Minor children shall not be financially eligible in their own right. The minor children are part of the family unit.

(d) The family care questions take into consideration the ages, number, level of responsibility of the children, and the presence of a spouse when determining the need for chore services.

(i) Family housework determines the need for additional help cleaning the household because of the presence of children.

(ii) Family tasks determines the need for escort and transportation, laundry services, meal preparation and shopping, and bathing and dressing for the client's children.

(iii) Supervision of children determines the need for physical supervision of the children when the client is in the home, but unable to supervise them.

(iv) Score for subsection (3)(e)(i), (ii), and (iii) is O = 0, M = 14, S = 27, and T = 40. Enter the score on the bottom of the assessment form and add to the total score from the scoring chart.

(e) The chore services provider may not act as a parent substitute or make major decisions affecting the children.

AMENDATORY SECTION (Amending Order 2625, filed 5/17/88)

WAC 388-15-217 CHORE SERVICES FOR EMPLOYED DISABLED ADULTS. (1) The following definitions shall apply for purposes of this section:

(a) "Employed" means engaged on a regular basis in any work activity for which monetary compensation is obtained.

(b) "Total income" is the sum of an applicant's or client's unearned income plus gross earned income.

(2) Employed disabled adults shall be eligible for chore services ~~((as provided in this section))~~ if they are otherwise eligible under the provisions of WAC 388-15-207 through ~~(388-15-215))~~ 388-15-216. The employed disabled adults shall participate in the cost of care as authorized by RCW 74.08.570.

(3) To be eligible for chore services under this section, a client or applicant shall meet all of the following conditions:

- (a) Be eighteen years of age or older.
- (b) Be a resident of the state of Washington.
- (c) Be determined by the department to be disabled as specified in subsection (4) of this section.
- (d) Be willing to submit to such examinations as are deemed necessary by the department to establish the extent and nature of the disability.
- (e) Be employed.
- (f) Have earned income which is less than forty percent of the state median income after subtracting work expenses, the cost of chore services, and any medical expenses which are not covered through insurance or another source and such medical expenses are incurred to allow the disabled person to work.
- (g) Be in need of chore services as determined by the department using ~~((a client review questionnaire))~~ an assessment form.
- (h) Have unearned income at or below forty percent of the state median income or be an adult supplemental security income and/or state supplementation recipient.
- (i) Meet the resource limits specified for the chore services program in WAC 388-15-209 (2)~~((f) and))~~(b)(i), (f), and (g).
- (j) Promptly report to the department in writing any changes in income or resources which may effect eligibility.
- (k) Agree to pay all chore service costs beyond the state's contribution as determined using a sliding fee schedule.

(4) For purposes of this section, an applicant is disabled if either of the following conditions is satisfied:

(a) The department has previously determined the applicant ~~((is disabled))~~ is disabled~~((is))~~ for the purpose of receiving social security disability insurance (SSDI) ~~((or))~~,₂ supplemental security income (SSI) or, ~~((federal aid medical care only (FAMCO)))~~ nongrant Medicaid, and there has been no appreciable improvement in the applicant's disabling condition(s) since that disability determination was made.

(b) The applicant is determined by the department to have a medically determinable physical or mental impairment which is comparable in severity to a disability which would qualify an applicant for medical assistance related to Title XVI under WAC 388-92-015 (3)(c).

(5) The department shall pay its share of chore service costs to the client following receipt of documentation that the services were provided. If the department verifies that less service is provided in any month than the maximum authorized, the department shall pay a prorated portion of its share of cost. The client shall employ the chore service provider and shall pay the provider the full amount due for services rendered. If the client receives services exceeding those authorized by the department, or agrees to a rate of pay exceeding that authorized by the department, the client shall be responsible for paying the amount exceeding the department's authorized service cost.

(6) The department shall compute an applicant's work-related expenses as follows:

- (a) The department shall deduct work-related expenses in accordance with the "percentage method" or the "actual method," whichever is chosen by the client;
- (b) If the client chooses the "percentage method," the department shall deduct twenty percent of the gross earned income;
- (c) If the client chooses the "actual method," the department shall deduct the actual cost of each work-related expense. The department shall use this method only when the client provides written verification of all work related expenses claimed.
- (d) When determined by the "actual method," allowable work expenses shall consist of:

- (i) Child care;
- (ii) Payroll deductions required by law or as a condition of employment, in amounts actually withheld;
- (iii) The necessary cost of transportation to and from the place of employment by the most economical means, not to include rental cars; and,
- (iv) Expenses of employment necessary for continued employment, such as:
 - (A) Tools~~((;))~~;
 - (B) Materials~~((;))~~;
 - (C) Union dues~~((;))~~;
 - (D) Transportation to service customers if not furnished or reimbursed by the employer~~((;))~~; and
 - (E) Uniforms and clothing needed on the job but not suitable for wear away from the job.

(e) Even if verified, the department shall not count work-related expenses in excess of the applicant's gross earned income.

Percentage of State Median Income (After Deductions)	Percentage of Rate Paid By The Department
Above 0 through 5	95
Above 5 through 10	90
Above 10 through 15	85
Above 15 through 20	80
Above 20 through 25	75
Above 25 through 30	70
Above 30 through 35	65
Above 35 through 40	60

(l) Meet all other requirements for the chore services program as defined in WAC 388-15-207 through ~~((388-15-215))~~ 388-15-216.

(f) The client shall have the option to change methods ((whenever he or she reports)) when reporting income to the appropriate department staff.

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

WSR 89-14-087
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)

[Order 2863—Filed June 30, 1989]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to applicability of chapter 248-19 WAC, new WAC 248-19-231 and repealing WAC 248-19-230.

I, Leslie F. James, 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 amendments are necessary to maintain rules for limiting development of tertiary health services, necessary to preserve public health and safety to be effective July 1, 1989, at 12:01 a.m.

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

This rule is promulgated pursuant to chapter 9, Laws of 1989 1st ex. sess. and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 30, 1989.

By Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 248-19-231 APPLICABILITY OF CHAPTER 248-19 WAC. (1) The following undertakings shall be subject to the provisions of chapter 248-19 WAC, with the exceptions provided for in this section.

(a) The construction, development, or other establishment of a new health care facility:

(i) No new health care facility may be initiated as a health service of an existing health care facility without certificate of need approval as a new health care facility;

(ii) The extension, on a regular and ongoing basis, of the services of a home health agency or a hospice in a county not previously regularly included in the service are of that home health agency or hospice during the preceding twelve months shall be considered the development of a new home health agency or hospice.

(b) The sale, purchase, or lease of part or all of any existing hospital licensed under chapter 70.41 RCW or a psychiatric hospital licensed under chapter 71.12 RCW;

(c) A change in bed capacity of a health care facility increasing the total number of licensed beds or redistributing beds among acute care, skilled nursing, intermediate care, and boarding home care if the bed redistribution is effective for a period in excess of six months;

(d) Any new tertiary health services offered in or through a health care facility, and not offered on a regular basis by, in, or through such health care facility within the twelve-month period prior to the time the facility will offer such services:

(i) Tertiary services include the following:

(A) Specialty burn services;

(B) Intermediate care nursery, consistent with chapter 248-18 WAC;

(C) Neonatal intensive care nursery, consistent with chapter 248-19 WAC;

(D) Obstetric services level II. A level II service provides a full range of maternal and neonatal services for uncomplicated patients. Level II units will also provide a full range of services for the majority of complicated obstetrical problems and certain neonatal illnesses. Level II units will have a highly trained multidisciplinary staff;

(E) Obstetric services level III. Level III services are provided to the few women and infants requiring full intensive care services for the most serious type of maternal-fetal and neonatal illnesses and abnormalities. Such a service provides the coordination of care, communications, transfer, and transportation for a given region. Level III services provide leadership in preparatory and continuing education in prenatal and perinatal care and may be involved in clinical and basic research;

(F) Transplantation of specific solid organs, including, but not limited to, heart, liver, pancreas, lung, and kidney. A transplantation service for each solid organ is considered a separate tertiary service;

(G) Open heart surgery;

(H) Pediatric open heart surgery;

(I) Coronary artery bypass surgery;

(J) Vascular surgical procedures. Resection and graft of abdominal aortic aneurysm, surgical correction of patent ductus, carotid artery bypass surgery. Each vascular surgical procedure is considered a separate tertiary service;

(K) Extracorporeal shock wave biliary lithotripsy;

(L) Extracorporeal shock wave renal lithotripsy;

(M) Radiation therapy;

(N) Cardiac catheterization;

(O) Percutaneous transluminal coronary angioplasty (PTCA);

(P) Rehabilitation services level III. Level III rehabilitation services are services for persons with usually nonreversible, multiple function impairments of a moderate-to-severe complexity resulting in major changes in the patient's lifestyle and requiring intervention by several rehabilitation disciplines. Services are provided by a multidisciplinary team, including a rehabilitation nurse, and physical, occupational, and speech therapists; and vocational counseling; and managed by a physiatrist.

The service is provided in a dedicated unit with a separate nurses station staffed by nurses with specialized training and/or experience in rehabilitation nursing. While the service may specialize (i.e., spinal cord injury, severe head trauma, etc.), the service is able to treat all persons within the designated diagnostic specialization regardless of the level of severity or complexity of the impairments;

(Q) Specialized inpatient pediatric services. The services are for complex pediatric cases requiring specialized equipment, as well as specialty and subspecialty personnel. The services are provided in dedicated pediatric units;

(R) Interventional neuroradiology;

(S) Monoclonal antibody therapy;

(T) Laser angioplasty;

(U) Resection of brain tumor and

(V) Positron emission tomography (PET).

(ii) The department shall review, periodically revise, and update the list of tertiary services. The department shall change the tertiary services list through the adoption rules process and may change the list on an emergency basis;

(iii) The offering of an inpatient tertiary health service by a health maintenance organization or combination of health maintenance organizations is subject to the provisions under chapter 248-19 WAC unless the offering is exempt under the provisions of RCW 70.38.111.

(e) Any increase in the number of dialysis stations in a kidney disease center;

(f) Any capital expenditure in excess of the expenditure minimum for the construction, renovation, or alteration of a nursing home. However, a capital expenditure, solely for any one or more of the following, which does not substantially affect patient charges, is not subject to certificate of need review:

(i) Communications and parking facilities;

(ii) Mechanical, electrical, ventilation, heating, and air conditioning systems;

(iii) Energy conservation systems;

(iv) Repairs to, or the correction of, deficiencies in existing physical plant facilities necessary to maintain state licensure;

(v) Acquisition of equipment, including data processing equipment, not for use in the direct provision of health services;

(vi) Construction, involving physical plant facilities, including administrative and support facilities, not for use in the provision of health services;

(vii) Acquisition of land; and

(viii) Refinancing of existing debt.

(g) Any expenditure for the construction, renovation, or alteration of a nursing home or change in nursing home services in excess of the expenditure minimum made in preparation for any undertaking subject to the provisions under chapter 248-19 WAC and any arrangement or commitment made for financing such undertaking;

(h) No person may divide a project in order to avoid review requirements under any of the thresholds specified under this section; and

(i) The department may issue certificates of need authorizing only predevelopment expenditures, without authorizing any subsequent undertaking for which the predevelopment expenditures are made.

(2) No person shall engage in any undertaking subject to certificate of need review unless:

(a) A certificate of need authorizing such undertaking is issued and remains valid; or

(b) An exemption is granted in accordance with the provisions of this chapter.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 248-19-230 APPLICABILITY OF CHAPTER 248-19 WAC.

WSR 89-14-088

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed June 30, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning:

Amd	WAC 296-104-050	Administration—Examination for inspector.
Amd	WAC 296-104-260	Inspection of systems—Clearance at top of boilers.
Rep	WAC 296-104-315	New installations—Blow off tanks.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 14, 1989.

The authority under which these rules are proposed is chapter 70.79 RCW.

This notice is connected to and continues the matter in Notice Nos. WSR 89-08-075, 89-13-034 and 89-14-006 filed with the code reviser's office on April 5, 1989, June 15, 1989, and June 22, 1989.

Dated: June 30, 1989

By: Joseph A. Dear
Director

WSR 89-14-089

EMERGENCY RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 89-11—Filed June 30, 1989]

I, Joseph A. Dear, director of the Department of Labor and Industries, do promulgate and adopt at the director's office in Olympia, Washington, the annexed rules relating to chapter 296-17 WAC, applicable to workers' compensation insurance underwritten by the Washington state fund, Department of Labor and Industries, and specifically rules governing coverage and reporting for the trucking industry.

I, Joseph A. Dear, Director, Department of Labor and Industries, 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 recent legislation effective July 1, 1989, requires trucking industry employers formerly excluded from mandatory workers' compensation insurance coverage to provide such coverage to their Washington workers. To avoid unnecessary confusion among employers and provide them with coverage guidelines, it is necessary for this new rule to go into effect simultaneously with the effective date of the change to RCW 51.12.095. A formal hearing has been set for August 1, 1989, in the General Administration Building in Olympia at 10 a.m. to provide the public with an opportunity for input prior to the adoption of this rule on a permanent basis.

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

This rule is promulgated pursuant to RCW 51.12.095 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 30, 1989.

By Joseph A. Dear
Director

NEW SECTION

WAC 296-17-45002 SPECIAL TRUCKING INDUSTRY INTERPRETATIONS. In accordance with revisions to RCW 51.12.095(1) by Engrossed House Bill No. 1518 the following rule is being adopted on an emergency basis effective July 1, 1989. A formal hearing has been set for this matter in Olympia, Washington, on August 1, 1989, in the General Administration Building, First Floor Conference Room and is scheduled to begin at 10:00 a.m.

The following subsection shall apply to all trucking industry employers as applicable.

(1) **Insurance liability.** Every trucking industry employer operating as an intrastate carrier or a combined intrastate and interstate carrier must insure their workers' compensation insurance liability through the Washington state fund or be a qualified self-insured employer.

Washington employers operating exclusively in interstate or foreign commerce or any combination of interstate and foreign commerce must insure their workers' compensation insurance liability with the Washington state fund or under the workers' compensation insurance laws of another state.

Each interstate or foreign commerce trucking employer who insures his/her workers' compensation insurance liability under the laws of another state must provide the department with copies of their current policy and applicable endorsements upon request.

Any employer who elects to insure their workers' compensation insurance liability under the laws of another state and who fail to provide updated policy information when requested to do so, will result in the employer being declared as an unregistered employer and be subject to all the penalties contained in Title 51 RCW.

(2) **Reporting.** Every trucking industry employer insuring their workers' compensation insurance liability with the Washington state fund shall keep and preserve all original time records/books including supporting information from drivers' logs for a period of three calendar years plus three months.

Employers are to report actual hours worked for each driver in their employ including time spent loading and unloading trucks. For purposes of this section, actual hours worked does not include time spent during lunch or rest periods or overnight lodging.

Failure of an employer to keep accurate records of actual hours worked by their employees will result in the department estimating work hours by dividing gross payroll wages for each worker for whom records were not kept by the state minimum wage. However, in no case will the estimated hours exceed five hundred twenty hours per calendar quarter for each worker.

(3) **Exclusions.** Trucking industry employers meeting all of the following conditions are exempted from mandatory coverage.

(a) Must be engaged exclusively in interstate or foreign commerce.

(b) Must have elected to cover their Washington workers on a voluntary basis under the Washington state fund and must have elected such coverage in writing on forms provided by the department.

(c) After having elected coverage withdrew such coverage in writing to the department on or before January 2, 1987.

If all the conditions set forth in (a), (b), and (c) of this subsection have not been met, the employer must insure their workers' compensation insurance liability with the Washington state fund or under the laws of another state.

WSR 89-14-090
PROPOSED RULES
DEPARTMENT OF LICENSING
(Examining Board of Psychology)
[Filed June 30, 1989]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Examining Board of Psychology intends to adopt, amend, or repeal rules concerning the amending of WAC 308-122-360, 308-122-370, 308-122-380, 308-122-390, 308-122-400, 308-122-410, 308-122-420, 308-122-430, 308-122-440, 308-122-450, and 308-122-500; new 308-122-503, 308-122-550, 308-122-555, 308-122-560, 308-122-565, 308-122-570, 308-122-575 and 308-122-580;

that the agency will at 9:30 a.m., Friday, September 8, 1989, in the Best Western Airport Executel, Conference Room 2, 20717 Pacific Highway South, Seattle, WA 98188, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.83.050(1) and 18.83.090.

The specific statute these rules are intended to implement is RCW 18.83.090 and 18.83.105.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 7, 1989.

Dated: June 30, 1989

By: Joyce A. Roper
Assistant Attorney General

STATEMENT OF PURPOSE

Title and Number of Rule Section and Chapter: WAC 308-122-360 Certificates of qualification; 308-122-370 Certificates of qualification—Title; 308-122-380 Certificates of qualification—Educational requirements; 308-122-390 Certificates of qualification—Experience and training requirements; 308-122-400 Certificates of qualification—Psychological functions; 308-122-410 Certificates of qualification—Written examination; 308-122-420 Certificates of qualification—Oral examination; 308-122-430 Certificates of qualification—Procedure for additional areas of function; 308-122-440 Continued supervision of person receiving certificates of qualification; 308-122-450 Certificates of qualification—Representations to clients; 308-122-500 Continuing education—Purpose and scope; 308-122-503 Staggered effective periods for new continuing education rules, WAC 308-122-550 through 308-122-580; 308-122-550 Continuing education requirements; 308-122-555 Definition of creditable CPE; 308-122-560 Definition of acceptable documentation and proof of CPE; 308-122-565 Continuing education—Special considerations; 308-122-570 Continuing education—Enforcement; 308-122-575 Continuing education—Exemptions; and 308-122-580 Continuing education—Program of course approval.

Statutory Authority and Specific Statute that These Rules are Intended to Implement: WAC 308-122-360 through 308-122-450 are adopted under authority of RCW 18.83.050(1) and are intended to implement RCW 18.83.105; and WAC 308-122-500 and 308-122-503 through 308-122-580 are adopted under authority of RCW 18.83.090 and are intended to implement that statute.

Summary of Rules and Reasons Supporting These Rules: WAC 308-122-360 through 308-122-450 are housekeeping in nature and clarify the distinction between "psychologists" and holders of "certificates of qualification" for purposes of identifying which rules apply to each; WAC 308-122-500 is housekeeping in nature; and WAC 308-122-503 through 308-122-580 involve a change of the continuing education requirements, which are to be phased in on a staggered basis.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of These Rules: In addition to the members of the Board of Psychology, the following individual has knowledge of and responsibility for drafting, implementing, and enforcing these rules: Yvonne Braeme, Program Manager, P.O. Box 9012, Eastside Plaza Building, 1300 Quince Street, Olympia, WA 98502, 234-3095 scan, 753-3095 comm.

Name of Person or Organization that is Proposing These Rules: Examining Board of Psychology.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to These Rules: None.

These rules are not necessary to comply with a federal law or state court decision.

Any Other Information that may be Assistance in Identifying These Rules or Their Purpose: None.

The department has reviewed the impact that the adoption of these rules would have on psychologists. Psychologists are most appropriately classed in SIC Code 8049. They account for less than 10 percent of the firms and individuals in this area. They are less than 20 percent of all firms and individuals in all industries. Any impact that these proposed rules may have is intended to fall equally on all psychologists.

AMENDATORY SECTION (Amending Order PL 202, filed 10/1/75)

WAC 308-122-360 (~~(PSYCHOLOGISTS)~~) CERTIFICATES OF QUALIFICATION. Procedures by which the Washington state board of psychologist examiners approves certificates of qualification are primarily based upon RCW 18.83.105 that states: "The board may issue certificates of qualification with appropriate title to applicants who meet all the licensing requirements except the possession of the degree of doctor of philosophy or its equivalent in psychology from an accredited educational institution." Procedures and rules established by the board are as follows.

AMENDATORY SECTION (Amending Order PL 202, filed 10/1/75)

WAC 308-122-370 (~~(PSYCHOLOGISTS)~~) CERTIFICATES OF QUALIFICATION—TITLE. Applicants receiving the certificates of qualification shall hold the title of "psychological assistant," unless the board approves the applicant's petition to work without immediate supervision in which case the applicant shall hold the title of "psychological affiliate."

AMENDATORY SECTION (Amending Order PL 202, filed 10/1/75)

WAC 308-122-380 (~~(PSYCHOLOGISTS)~~) CERTIFICATES OF QUALIFICATION—EDUCATIONAL REQUIREMENTS. The applicant shall have received at least a master's degree in psychology or a degree considered equivalent by the board. The applicant must have completed an adequate major in psychology from a regular graduate program of an accredited institution, as evaluated by the board.

AMENDATORY SECTION (Amending Order PL 202, filed 10/1/75)

WAC 308-122-390 (~~(PSYCHOLOGISTS)~~) CERTIFICATES OF QUALIFICATION—EXPERIENCE AND TRAINING REQUIREMENTS. The applicant shall have completed at least three years of full time experience or its equivalent satisfactory to the board. All of the supervisors of the experience time shall be listed on the application form as references. The applicant shall have completed a minimum of one year's experience practicing psychology under qualified and appropriate supervision, after receiving the graduate degree. It is the candidate's responsibility to describe the way in which he or she

meets these supervision requirements. Ordinarily this description will delineate the nature and objectives of his supervision, the ways in which the activities supervised met these objectives, and the specifics of time, place, frequency, and type of contact (e.g. observation, audio-tapes, video-tapes, co-counseling).

While the board does not prescribe exact supervision requirements, it does subscribe to certain principles and guidelines regarding effective supervision. Effective supervision is viewed as that which is planned and systematic, psychological in nature, intensive in depth of analysis; and involving direct or taped observation and critique on a regular basis.

AMENDATORY SECTION (Amending Order PL 202, filed 10/1/75)

WAC 308-122-400 ((~~PSYCHOLOGISTS~~)) **CERTIFICATES OF QUALIFICATION—PSYCHOLOGICAL FUNCTIONS.** Applicants for certificates of qualification shall receive the certificates in specific areas of competence. Certificates shall indicate the general title "psychological assistant" or "psychological affiliate" along with a specific function. The specific functions may include:

- (1) Intellectual and/or personality assessment. (e.g. psychometrist or neuropsychological technician.)
- (2) Educational-vocational counseling. (e.g. educational counselor, high school or college counselor, vocational counselor or rehabilitation counselor.)
- (3) Mental health counseling. (e.g. alcohol and drug counselor, behavior modification counselor, or group counseling co-leader.)
- (4) Educational development and learning. (e.g. counseling and evaluation of education related problems.)
- (5) Research.
- (6) Industrial/organizational development. (e.g. personnel technician, group process co-leader, organizational development staff member.)

Specific functions other than those listed above may be suggested by applicants and subsequently determined and approved by the board.

AMENDATORY SECTION (Amending Order PL 346, filed 6/9/80)

WAC 308-122-410 ((~~PSYCHOLOGISTS~~)) **CERTIFICATES OF QUALIFICATION—WRITTEN EXAMINATION.** The applicant must satisfactorily pass the written examination developed by the professional testing service of the American Association of State Psychology Boards. The cutting score for the written examination shall be 75% of the raw score. Any applicant who fails to make a passing score on the examination shall be allowed to take the examination again, subject to the standard examination fee. Written examinations shall be administered at least once a year.

AMENDATORY SECTION (Amending Order PL 202, filed 10/1/75)

WAC 308-122-420 ((~~PSYCHOLOGISTS~~)) **CERTIFICATES OF QUALIFICATION—ORAL EXAMINATION.** Each oral examination conducted by the board shall include questioning in the following areas:

- (1) Professional judgment in the applicant's specialty areas; and
- (2) Knowledge of current laws regulating the practice of psychology; and
- (3) Knowledge and awareness of ethical issues and problems in the applicant's specialty areas and for psychologists in general; and
- (4) Knowledge and skills in areas in which the applicant considers himself/herself competent to offer psychological services; and
- (5) Applicant's past supervision and career plans; and
- (6) Applicant's plans for professional development and continued supervision.

In the event that an applicant fails in the initial oral examination he or she may be rescheduled for another oral examination before the board.

AMENDATORY SECTION (Amending Order PL 202, filed 10/1/75)

WAC 308-122-430 ((~~PSYCHOLOGISTS~~)) **CERTIFICATES OF QUALIFICATION—PROCEDURE FOR ADDITIONAL AREAS OF FUNCTION.** A person receiving a certificate of qualification

may apply for certification in an additional area of function by updating his/her application form and references, submitting the required fee and by taking an oral examination in the new area following the procedures outlined above.

AMENDATORY SECTION (Amending Order PL 202, filed 10/1/75)

WAC 308-122-440 ((~~PSYCHOLOGISTS~~)) **CONTINUED SUPERVISION OF PERSONS RECEIVING CERTIFICATES OF QUALIFICATION.** (1) The law states that the holder of a certificate of qualification must perform psychological functions "under the periodic direct supervision of a psychologist licensed by the board." The board's interpretation of this statement is that the psychological assistant is certified in tandem with a licensed psychologist and not in his or her own right. That is, the board will evaluate simultaneously the professional capabilities of the applicant and the qualifications of the licensed psychologist to supervise the assistant in the specific professional functions outlined by the assistant. The board's approval of an association between a psychological assistant and a licensed psychologist is done purely on an examination of the professional qualifications of the two parties concerned and on the execution of an agreement between the two of them as proposed supervisor and supervisee. The board in no way involves itself with the specific work conditions, fees, salaries, and related factors except insofar as they have a bearing on the quality of the professional relationship or services offered to the public.

(2) The applicant must indicate on the application form, in detail, his or her areas of intended practice. After initial screening (evaluation of the person's education, experience and supervision) and passing the national written examination, the applicant shall furnish the board with a plan for continued supervision which will include detailed information regarding the supervisor which indicates an agreement to supervise. The board will use this information in conjunction with the oral examination to assess the supervision plans.

(3) Minimum supervision shall entail discussion of the assistant's work through regularly scheduled contacts with the supervisor at appropriate intervals. Whenever possible, supervision should consist of occasional direct observation or review of taped case material. The supervisor shall be responsible for preparing evaluative reports of the assistant's performance, which will be forwarded to the division of professional licensing on a periodic basis.

(4) When a licensed psychologist assumes the responsibility of supervision, he or she shares the professional and ethical responsibility for the nature and quality of all of the psychological services as the assistant may provide. Failure to provide supervision when such a relationship is claimed may result in appropriate action against the license of the supervisor.

(5) Interruption or termination of a supervisory relationship shall be promptly communicated to the division of professional licensing.

(6) In every case where psychological testing is done and a report is written based on that testing by a psychological assistant, the supervising licensed psychologist will countersign the report indicating his approval.

(7) An applicant or holder of a certificate may apply to the board for authority to work without immediate supervision in particular areas of function. In these cases the board may require further evidence of proficiency. Even though the immediate supervision requirement is waived for the psychological affiliate, periodic supervisory consultation as deemed appropriate by the board is required. Evidence of supervisory consultation must be submitted to the division of professional licensing with the annual license fee.

AMENDATORY SECTION (Amending Order PL 202, filed 10/1/75)

WAC 308-122-450 ((~~PSYCHOLOGISTS~~)) **CERTIFICATES OF QUALIFICATION—REPRESENTATIONS TO CLIENTS.** (1) Each client of the psychological assistant or psychological affiliate must be informed of the nature of the assistant's or affiliate's professional status, the function in which he or she is certified, and the fact that said assistant is under the supervision of a licensed psychologist.

(2) Only psychological affiliates may advertise their services (e.g. representations of themselves in telephone directories and announcements and on business cards). In doing so, the affiliate must list the functions for which he or she is certified and state his or her academic degree.

AMENDATORY SECTION (Amending Order PL 578, filed 2/5/86)

WAC 308-122-500 CONTINUING EDUCATION—PURPOSE AND SCOPE. The ultimate aim of continuing education is to ensure the highest quality of professional work. Continuing ((psychology)) psychological education consists of educational activities designed to review existing concepts and techniques and to convey information and knowledge about advances in the science and applications of psychology as ((applied)) appropriate to the work settings. The objectives are to improve and increase the ability of the psychologist or psychological associate or affiliate to deliver the highest possible quality of psychological work and to keep the ((professional)) psychologist or associate or affiliate abreast of current developments in a rapidly changing field. All psychologists(;) licensed pursuant to chapter 18.83 RCW, and psychological associate or affiliate holders of certificates of qualification issued pursuant to RCW 18.83.105 (all types hereafter referred to as licensees), will be required to meet the continuing education requirements set forth in these rules as a prerequisite to license renewal.

NEW SECTION

WAC 308-122-503 STAGGERED EFFECTIVE PERIODS FOR NEW CONTINUING EDUCATION RULES, WAC 308-122-550 THROUGH 308-122-580. (1) WAC 308-122-505 through 308-122-545 applies to those licensees who are required to submit affidavits of compliance with their 1989, 1990, or 1991 renewal of licenses for the continuing psychological education as attested to on those affidavits.

(2) For those licensees who have submitted or are required to submit an affidavit of compliance pursuant to WAC 308-122-545 in 1989, WAC 308-122-550 through 308-122-580 shall apply for the submission of proof of continuing psychological education with the licensees' 1992 renewals of licenses instead of WAC 308-122-505 through 308-122-545.

(3) For those licensees who are required to submit an affidavit of compliance pursuant to WAC 308-122-545 in 1990, WAC 308-122-550 through 308-122-580 shall apply for the submission of proof of continuing psychological education with the licensees' 1993 renewals of licenses instead of WAC 308-122-505 through 308-122-545.

(4) For those licensees who are required to submit an affidavit of compliance pursuant to WAC 308-122-545 in 1991, WAC 308-122-550 through 308-122-580 shall apply for the submission of proof of continuing psychological education with the licensees' 1994 renewals of licenses instead of WAC 308-122-505 through 308-122-545.

NEW SECTION

WAC 308-122-550 CONTINUING EDUCATION REQUIREMENTS. (1) The Washington state examining board of psychology (hereafter referred to as the board) requires a minimum of eighty credit hours of continuing psychological education (hereafter referred to as CPE) every three years.

(2) One clock hour of instruction and/or training shall equal one credit hour for the purpose of satisfying the eighty hour CPE requirement.

(3) All licensees will be on the three-year cycle. All new licensees licensed after the effective date will have three years from their next birthday to show evidence of eighty CPE hours.

(4) Credit hours that are in excess of the requirements set forth cannot be credited to CPE requirements for any succeeding three-year cycle.

(5) A minimum of four hours credit must be earned in ethics every three years prior to renewal of license. Ethics to be covered, dependent upon the licensee's primary area(s) of function, are practice, consultation, research, teaching, and/or supervision.

(6) Faculty providing CPE offerings shall meet the training and the full qualifications of their respective professions. All faculty shall have demonstrated expertise in the areas in which they are instructing.

NEW SECTION

WAC 308-122-555 DEFINITION OF CREDITABLE CPE. (1) CPE activities shall be a minimum of three credit hours dealing with the same topic or subject matter. The required minimum of three credit hours need not be three continuous hours, however, the three hours must be at consecutive sessions and must deal with the same topic or subject matter.

(2) All CPE activities shall be directly relevant to maintaining or increasing professional or scientific competence in psychology. Courses or workshops primarily designed to increase practice income or office efficiency, while valuable to the licensee, are specifically noneligible for CPE credit.

(3) Recognized activities shall include:

(a) Courses, seminars, workshops and post-doctoral institutes offered by educational institutions chartered by a state and recognized (accredited) by a regional association of school, colleges and universities that meet the requirements of this subsection.

(b) Courses (including correspondence courses), seminars, workshops and post-doctoral institutes sponsored or accredited by the National Academy of Professional Psychologists, the American Psychological Association, regional psychological associations, the Washington State Psychological Association and its chapters, other states' psychological associations which have CPE programs or requirements, agencies with American Psychological Association approved internship programs and other professionally or scientifically recognized behavioral science organizations, including but not limited to, the National Association of Social Work (NASW), National Training Lab (NTL), American Association for Counseling and Guidance (AACG), Veterans Administration Regional Medical Education Centers (RMEC), American Medical Association (AMA), Northwest Family Training Institute (NFTI), Mental Research Institute (MRI), American Association for Behavior Therapy (AABT), Society of Behavioral Medicine (SBM), Association for Applied Psychophysiology and Biofeedback (AAPB), American Orthopsychiatric Association (AOA). These must meet the requirements of this subsection.

NEW SECTION

WAC 308-122-560 DEFINITION OF ACCEPTABLE DOCUMENTATION AND PROOF OF CPE. (1) Licensees are responsible for acquiring and maintaining all acceptable documentation of their CPE activities.

(2) In order to be acceptable to the board upon audit, documentation shall include transcripts, letters from course instructors, or certificate of completion. In all cases other than transcripts, the participant's name, the activity title, number of activity credit hours, activity date(s), faculty signature and degree (when appropriate), and signature and title of verifying individual must be clearly evident.

NEW SECTION

WAC 308-122-565 CONTINUING EDUCATION—SPECIAL CONSIDERATIONS. (1) The board will accept evidence of diplomate award by the American Board of Examiners in Professional Psychology (ABPP) in lieu of eighty hours of CPE for that three year period in which the diplomate was awarded.

(2) Credit hours may be earned for other specialty board, education awards, or diploma certifications if and when such are established.

(3) Psychologists or psychological associates licensed in Washington state who wish to retain their Washington license, but are working and living in another state, United States territory or country, may submit evidence of their CPE activities pursued outside of Washington state directly to the board for evaluation and partial or total approval based on conformity to the board's CPE requirements.

NEW SECTION

WAC 308-122-570 CONTINUING EDUCATION—ENFORCEMENT. (1) Certificate of compliance: Every third year, in conjunction with the application for renewal of license, a licensee shall submit an affidavit of compliance with the eighty hours CPE requirement on a form supplied by the board. Failure to submit such affidavit at licensure renewal time, or submission of the affidavit in such manner that CPE compliance cannot be determined by the board will result in denial of renewal of license. Renewal will be based on decision of the board after compliance requirement is adequately met.

(2) Audit: A percentage, which shall be determined by the board, of all licensees' affidavits submitted along with license renewal applications will be regularly audited by the board. Upon audit, it is the sole responsibility of the licensee to submit copies of the appropriate and acceptable documentation to the board. Failure to comply with the audit documentation request, or failure to supply acceptable documentation within sixty days from date of audit request (in the absence of justification acceptable to the board) shall result in disciplinary action until compliance is deemed acceptable by the board.

(3) Failure to meet CPE requirements within each three year time period shall result in disciplinary action by the board. The licensee may petition the board for a hearing. License reinstatement will be based on decision of the board.

NEW SECTION

WAC 308-122-575 CONTINUING EDUCATION—EXEMPTIONS. In the event a licensee fails to meet requirements, because of illness, retirement (with no further provision of psychological services to consumers), failure to renew, or other extenuating circumstances, each case will be considered by the board on an individual basis. When circumstances justify it, the board may grant a time extension. The board may, in its discretion, limit in part or in whole the provision of psychological services to the consumers until the CPE requirements are met. In the case of retirement or illness, the board may grant indefinite waiver of CPE as a requirement for relicensure, provided an affidavit is received indicating he psychologist is not providing psychological services to consumers. If such illness or retirement status is changed or consumer psychological services are resumed, it is incumbent upon the licensee to immediately notify the board and to resume meeting CPE requirements for relicensure. CPE credit hours will be prorated for the portion of that three year period involving resumption of such services.

NEW SECTION

WAC 308-122-580 CONTINUING EDUCATION—PROGRAM OR COURSE APPROVAL. (1) The board will accept CPE that meets the requirements of this chapter. The board relies upon each individual licensee's integrity and the integrity of CPE providers to comply with the intent and spirit of the CPE requirements.

(2) CPE program sponsors or institutes should not apply for, nor expect to receive, prior or current board approval for CPE status. Audits of individual licensee's CPE shall be performed in accordance with specifications indicated in WAC 308-122-523 and 308-122-530.

WSR 89-14-091

EMERGENCY RULES

DEPARTMENT OF LICENSING

[Order DLR 89-101—Filed June 30, 1989]

I, Mary Faulk, director of the Washington State Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to watercraft registration fee, amending WAC 308-90-080.

I, Mary Faulk, 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 the agency is required to set vessel dealer license fees by rule effective July 1, 1989. Such fees are required by statute to be at a level sufficient to defray the cost of administering the program. Identifying the true cost of program operation, coupled with time taken to advise key legislators and vessel industry representatives, left insufficient time to file the rule on a nonemergency basis.

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

This rule is promulgated under the general rule-making authority of the director as authorized in RCW 88.02.060(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.

APPROVED AND ADOPTED June 30, 1989.

By Mary Faulk
Director

AMENDATORY SECTION (Amending Order DLR-162, filed 1/19/88)

WAC 308-90-080 REGISTRATION FEE—RENEWAL. (1) Any firm desiring to be a dealer must include with the application the required registration fee of one hundred twenty dollars.

(2) Vessel dealers will reapply for a registration on or before the expiration of their registration.

(3) The annual registration renewal fee of sixty dollars must be paid on or before each renewal date. If an application for renewal is not received by the department on or before the last day of the expiration month the registration is expired. The registration may be reinstated at any time within the next succeeding thirty days if renewal application and payment of the annual renewal fee then in default is received by the department. Registrations not renewed within thirty days of the renewal date then in default shall be cancelled. A new registration may be obtained by satisfying the procedures and qualifications for initial registration.

(4) If no department denial action is pending, the department shall issue a vessel dealer registration and renewal decals depicting the expiration of the registration upon receipt of a dealer's renewal fee and renewal application. The dealer shall affix the decal as a prefix to the dealer registration number on any vessels operated on the waters pursuant to RCW 88.02.023. The fee for the initial decal shall be forty dollars. Additional decals may be issued for a fee of twenty dollars each.

WSR 89-14-092

ADOPTED RULES

DEPARTMENT OF LICENSING

[Order PM 842—Filed June 30, 1989]

I, Mary Faulk, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to mandatory reporting requirements for the following professions and a rule requiring cooperation with investigation for licensees, certificants or registrants: Nursing assistant, social worker, mental health counselor, counselor, dispensing optician, respiratory care practitioner, marriage and family therapist, massage practitioner, ocularist, midwife, naturopath, dental hygienist, acupuncturist, radiological technologist and dietician or nutritionist.

This action is taken pursuant to Notice No. WSR 89-10-077 filed with the code reviser on May 3, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.130-.070 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED June 29, 1989.

By John Swannack
Assistant Director

NEW SECTION

WAC 308-25-080 GENERAL PROVISIONS. (1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of licensing, whose address is:

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

(5) "Dental hygienist" means a person licensed pursuant to chapter 18.29 RCW.

(6) "Mentally or physically disabled dental hygienist" means a dental hygienist who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice dental hygiene with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

NEW SECTION

WAC 308-25-090 MANDATORY REPORTING.

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

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

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

(b) The name and address and telephone numbers of the dental hygienist being reported.

(c) The case number of any client whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

(3) Mandatory reports shall be exempt from public inspection and copying to the extent permitted under RCW 42.17.310 or to the extent that public inspection

or copying of the report or any portion of the report would invade or violate a person's right to privacy as set forth in RCW 42.17.255.

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

NEW SECTION

WAC 308-25-100 HEALTH CARE INSTITUTIONS. The chief administrator or executive officer or their designee of any hospital or nursing home shall report to the department when any dental hygienist's services are terminated or are restricted based on a determination that the dental hygienist has either committed an act or acts which may constitute unprofessional conduct or that the dental hygienist may be unable to practice with reasonable skill or safety to the client by reason of a mental or physical condition.

NEW SECTION

WAC 308-25-110 DENTAL HYGIENIST ASSOCIATIONS OR SOCIETIES. The president or chief executive officer of any dental hygienist association or society within this state shall report to the department when an association or society determines that a dental hygienist has committed unprofessional conduct or that a dental hygienist may not be able to practice dental hygiene with reasonable skill and safety to clients as the result of any mental or physical condition. The report required by this section shall be made without regard to whether the license holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 308-25-120 HEALTH CARE SERVICE CONTRACTORS AND DISABILITY INSURANCE CARRIERS. The executive officer of every health care service contractor and disability insurer, licensed under chapters 48.20, 48.21, 48.21A, and 48.44 RCW, operating in the state of Washington shall report to the department all final determinations that a dental hygienist has engaged in fraud in billing for services.

NEW SECTION

WAC 308-25-130 PROFESSIONAL LIABILITY CARRIERS. Every institution or organization providing professional liability insurance directly or indirectly to dental hygienists shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured dental hygienist's incompetency or negligence in the practice of dental hygiene. Such organization or institution shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the dental hygienist's alleged incompetence or negligence in the practice of dental hygiene.

NEW SECTION

WAC 308-25-140 COURTS. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of licensed dental hygienists, other than minor traffic violations.

NEW SECTION

WAC 308-25-150 STATE AND FEDERAL AGENCIES. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a dental hygienist is employed to provide client care services, to report to the department whenever such a dental hygienist has been judged to have demonstrated his/her incompetency or negligence in the practice of dental hygiene, or has otherwise committed unprofessional conduct, or is a mentally or physically disabled dental hygienist. These requirements do not supersede any federal or state law.

NEW SECTION

WAC 308-25-160 COOPERATION WITH INVESTIGATION. (1) A licensee must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the director of the department of licensing by submitting the requested items within fourteen calendar days of receipt of the request by either the licensee or their attorney, whichever is first. If the licensee fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

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

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

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

NEW SECTION

WAC 308-26-055 GENERAL PROVISIONS. (1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of licensing, whose address is:

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

(5) "Dispensing optician" means a person licensed pursuant to chapter 18.34 RCW.

(6) "Mentally or physically disabled dispensing optician" means a dispensing optician who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice dispensing with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

NEW SECTION

WAC 308-26-065 MANDATORY REPORTING.

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

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

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

(b) The name and address and telephone numbers of the dispensing optician being reported.

(c) The case number of any patient whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

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

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

NEW SECTION

WAC 308-26-075 HEALTH CARE INSTITUTIONS. The chief administrator or executive officer of any hospital or nursing home or their designee shall report to the department when any dispensing optician's services are terminated or are restricted based on a determination that the dispensing optician has either committed an act or acts which may constitute unprofessional conduct or that the dispensing optician may be unable to practice with reasonable skill or safety to clients by reason of any mental or physical condition.

NEW SECTION

WAC 308-26-085 DISPENSING OPTICIAN ASSOCIATIONS OR SOCIETIES. The president or chief executive officer of any dispensing optician association or society within this state shall report to the department when the association or society determines that a dispensing optician has committed unprofessional conduct or that a dispensing optician may not be able to practice dispensing of optical goods with reasonable skill and safety to clients as the result of any mental or physical condition. The report required by this section shall be made without regard to whether the license holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 308-26-095 HEALTH CARE SERVICE CONTRACTORS AND DISABILITY INSURANCE CARRIERS. The executive officer of every health care service contractor and disability insurer, licensed under chapters 48.20, 48.21, 48.21A, and 48.44 RCW, operating in the state of Washington shall report to the department all final determinations that a dispensing optician has engaged in fraud in billing for services.

NEW SECTION

WAC 308-26-105 PROFESSIONAL LIABILITY CARRIERS. Every institution or organization providing professional liability insurance directly or indirectly to dispensing opticians shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured dispensing optician's incompetency or negligence in the practice of opticianry. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the dispensing optician's alleged incompetence or negligence.

NEW SECTION

WAC 308-26-115 COURTS. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of licensed dispensing opticians, other than minor traffic violations.

NEW SECTION

WAC 308-26-125 STATE AND FEDERAL AGENCIES. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a dispensing optician is employed to provide client care services, to report to the department whenever such a dispensing optician has been judged to have demonstrated his/her incompetency or negligence in the practice of opticianry, or has otherwise committed unprofessional

conduct, or is a mentally or physically disabled dispensing optician. These requirements do not supersede any federal or state law.

NEW SECTION

WAC 308-26-135 COOPERATION WITH INVESTIGATION. (1) A licensee must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the director of the department of licensing by submitting the requested items within fourteen calendar days of receipt of the request by either the licensee or their attorney, whichever is first. If the licensee fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

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

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

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

NEW SECTION

WAC 308-51-230 GENERAL PROVISIONS. (1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of licensing, whose address is:

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

(5) "Massage practitioner" means an individual licensed under chapter 18.108 RCW.

(6) "Mentally or physically disabled massage practitioner" means a massage practitioner who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice massage therapy with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

NEW SECTION

WAC 308-51-240 MANDATORY REPORTING.

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

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

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

(b) The name and address and telephone numbers of the massage practitioner being reported.

(c) The case number of any client whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

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

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

NEW SECTION

WAC 308-51-250 HEALTH CARE INSTITUTIONS. The chief administrator or executive officer of any hospital or nursing home or their designee shall report to the department when any massage practitioner's services are terminated or are restricted based on a determination that the massage practitioner has either committed an act or acts which may constitute unprofessional conduct or that the massage practitioner may be unable to practice with reasonable skill or safety to clients by reason of any mental or physical condition.

NEW SECTION

WAC 308-51-260 MASSAGE PRACTITIONER ASSOCIATIONS OR SOCIETIES. The president or chief executive officer of any massage practitioner association or society within this state shall report to the department when the association or society determines that a massage practitioner has committed unprofessional conduct or that a massage practitioner may not be able to practice massage therapy with reasonable skill and safety to clients as the result of any mental or physical condition. The report required by this section shall be made without regard to whether the license holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 308-51-270 HEALTH CARE SERVICE CONTRACTORS AND DISABILITY INSURANCE CARRIERS. The executive officer of every health care service contractor and disability insurer, licensed under chapters 48.20, 48.21, 48.21A, and 48.44 RCW, operating in the state of Washington shall report to the department all final determinations that a massage practitioner has engaged in fraud in billing for services.

NEW SECTION

WAC 308-51-280 PROFESSIONAL LIABILITY CARRIERS. Every institution or organization providing professional liability insurance directly or indirectly to massage practitioners shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured massage practitioner's incompetency or negligence in the practice of massage. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the massage practitioner's alleged incompetence or negligence in the practice of massage therapy.

NEW SECTION

WAC 308-51-290 COURTS. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of licensed massage practitioners, other than minor traffic violations.

NEW SECTION

WAC 308-51-300 STATE AND FEDERAL AGENCIES. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a massage practitioner is employed to provide client care services, to report to the department whenever such a massage practitioner has been judged to have demonstrated his/her incompetency or negligence in the practice of massage therapy, or has otherwise committed unprofessional conduct, or is a mentally or physically disabled massage practitioner. These requirements do not supersede any state or federal law.

NEW SECTION

WAC 308-51-310 COOPERATION WITH INVESTIGATION. (1) A licensee must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the director of the department of licensing by submitting the requested items within fourteen calendar days of receipt of the request by either the licensee or their attorney, whichever is first. If the licensee fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

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

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

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

NEW SECTION

WAC 308-55-035 GENERAL PROVISIONS. (1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of licensing, whose address is:

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

(5) "Ocularist" means a person licensed under chapter 18.55 RCW.

(6) "Mentally or physically disabled ocularist" means an ocularist who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice ocular prosthetic services with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

NEW SECTION

WAC 308-55-045 MANDATORY REPORTING.

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

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

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

(b) The name and address and telephone numbers of the ocularist being reported.

(c) The case number of any client whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

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

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

NEW SECTION

WAC 308-55-055 HEALTH CARE INSTITUTIONS. The chief administrator or executive officer or their designee of any hospital or nursing home shall report to the department when any ocularist's services are terminated or are restricted based on a determination that the ocularist has either committed an act or acts which may constitute unprofessional conduct or that the ocularist may be unable to practice with reasonable skill or safety to clients by reason of any mental or physical condition.

NEW SECTION

WAC 308-55-065 OCULARIST ASSOCIATIONS OR SOCIETIES. The president or chief executive officer of any ocularist association or society within this state shall report to the department when the association or society determines that an ocularist has committed unprofessional conduct or that an ocularist may not be able to practice ocular prosthetics with reasonable skill and safety to clients as the result of any mental or physical condition. The report required by this section shall be made without regard to whether the license holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 308-55-075 HEALTH CARE SERVICE CONTRACTORS AND DISABILITY INSURANCE CARRIERS. The executive officer of every health care service contractor and disability insurer, licensed under chapters 48.20, 48.21, 48.21A, and 48.44 RCW, operating in the state of Washington shall report to the department all final determinations that an ocularist has engaged in fraud in billing for services.

NEW SECTION

WAC 308-55-085 PROFESSIONAL LIABILITY CARRIERS. Every institution or organization providing professional liability insurance directly or indirectly to ocularists shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an

insured ocularist's incompetency or negligence in the practice of ocular prosthetic services. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the ocularist's alleged incompetence or negligence.

NEW SECTION

WAC 308-55-095 COURTS. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of licensed ocularists, other than minor traffic violations.

NEW SECTION

WAC 308-55-105 STATE AND FEDERAL AGENCIES. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which an ocularist is employed to provide client care services, to report to the department whenever such an ocularist has been judged to have demonstrated his/her incompetency or negligence in the practice of ocular prosthetic services, or has otherwise committed unprofessional conduct, or is a mentally or physically disabled ocularist. These requirements do not supersede any federal or state law.

NEW SECTION

WAC 308-55-115 COOPERATION WITH INVESTIGATION. (1) A licensee must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the director of the department of licensing by submitting the requested items within fourteen calendar days of receipt of the request by either the licensee or their attorney, whichever is first. If the licensee fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

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

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

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

NEW SECTION

WAC 308-115-260 GENERAL PROVISIONS. (1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of licensing, whose address is:

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

(5) "Midwife" means a person licensed pursuant to chapter 18.50 RCW.

(6) "Mentally or physically disabled midwife" means a midwife who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice midwifery with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

NEW SECTION

WAC 308-115-270 MANDATORY REPORTING. (1) All reports required by this chapter shall be submitted to the department as soon as possible, but no later than twenty days after a determination is made.

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

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

(b) The name and address and telephone numbers of the midwife being reported.

(c) The case number of any patient whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

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

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

NEW SECTION

WAC 308-115-280 HEALTH CARE INSTITUTIONS. The chief administrator or executive officer or their designee of any hospital or nursing home shall report to the department when any midwife's services are terminated or are restricted based on a determination

that the midwife has either committed an act or acts which may constitute unprofessional conduct or that the midwife may be unable to practice with reasonable skill or safety to clients by reason of any mental or physical condition.

NEW SECTION

WAC 308-115-290 MIDWIFERY ASSOCIATIONS OR SOCIETIES. The president or chief executive officer of any midwifery association or society within this state shall report to the department when the association or society determines that a midwife has committed unprofessional conduct or that a midwife may not be able to practice midwifery with reasonable skill and safety to patients as the result of any mental or physical condition. The report required by this section shall be made without regard to whether the license holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 308-115-310 HEALTH CARE SERVICE CONTRACTORS AND DISABILITY INSURANCE CARRIERS. The executive officer of every health care service contractor and disability insurer, licensed under chapters 48.20, 48.21, 48.21A, and 48.44 RCW, operating in the state of Washington shall report to the department all final determinations that a midwife has engaged in fraud in billing for services.

NEW SECTION

WAC 308-115-320 PROFESSIONAL LIABILITY CARRIERS. Every institution or organization providing professional liability insurance directly or indirectly to midwives shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured midwife's incompetency or negligence in the practice of midwifery. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the midwife's alleged incompetence or negligence in the practice of midwifery.

NEW SECTION

WAC 308-115-330 COURTS. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of licensed midwives, other than minor traffic violations.

NEW SECTION

WAC 308-115-340 STATE AND FEDERAL AGENCIES. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a midwife is employed to provide patient care services, to report to the department whenever such a midwife has been

judged to have demonstrated his/her incompetency or negligence in the practice of midwifery, or has otherwise committed unprofessional conduct, or is a mentally or physically disabled midwife. These requirements do not supersede any federal or state law.

NEW SECTION

WAC 308-115-350 COOPERATION WITH INVESTIGATION. (1) A licensee must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the director of the department of licensing by submitting the requested items within fourteen calendar days of receipt of the request by either the licensee or their attorney, whichever is first. If the licensee fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

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

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

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

Chapter 308-130 WAC NATUROPATHS

WAC

308-130-320	General provisions.
308-130-330	Mandatory reporting.
308-130-340	Health care institutions.
308-130-350	Naturopathic associations or societies.
308-130-360	Health care service contractors and disability insurance carriers.
308-130-370	Professional liability carriers.
308-130-380	Courts.
308-130-390	State and federal agencies.
308-130-400	Cooperation with investigation.

NEW SECTION

WAC 308-130-320 GENERAL PROVISIONS. (1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of licensing, whose address is:

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

(5) "Naturopath" means a person licensed pursuant to chapter 18.36A RCW.

(6) "Mentally or physically disabled naturopath" means a naturopath who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice naturopathy with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

NEW SECTION

WAC 308-130-330 MANDATORY REPORTING. (1) All reports required by this chapter shall be submitted to the department as soon as possible, but no later than twenty days after a determination is made.

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

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

(b) The name and address and telephone numbers of the naturopath being reported.

(c) The case number of any patient whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

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

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

NEW SECTION

WAC 308-130-340 HEALTH CARE INSTITUTIONS. The chief administrator or executive officer or their designee of any hospital or nursing home shall report to the department when any naturopath's services are terminated or are restricted based on a determination that the naturopath has either committed an act or acts which may constitute unprofessional conduct or that the naturopath may be unable to practice with reasonable skill or safety to clients by reason of any mental or physical condition.

NEW SECTION

WAC 308-130-350 NATUROPATHIC ASSOCIATIONS OR SOCIETIES. The president or chief executive officer of any naturopathic association or society within this state shall report to the department when the association or society determines that a naturopath has committed unprofessional conduct or that a naturopath may not be able to practice naturopathy with reasonable skill and safety to patients as the result of any mental or physical condition. The report required by this section shall be made without regard to whether the license holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 308-130-360 HEALTH CARE SERVICE CONTRACTORS AND DISABILITY INSURANCE CARRIERS. The executive officer of every health care service contractor and disability insurer, licensed under chapters 48.20, 48.21, 48.21A, and 48.44 RCW, operating in the state of Washington shall report to the department all final determinations that a naturopath has engaged in fraud in billing for services.

NEW SECTION

WAC 308-130-370 PROFESSIONAL LIABILITY CARRIERS. Every institution or organization providing professional liability insurance directly or indirectly to naturopaths shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured naturopath's incompetency or negligence in the practice of naturopathy. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the naturopath's alleged incompetence or negligence in the practice of naturopathy.

NEW SECTION

WAC 308-130-380 COURTS. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of licensed naturopaths, other than minor traffic violations.

NEW SECTION

WAC 308-130-390 STATE AND FEDERAL AGENCIES. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a naturopath is employed to provide patient care services, to report to the department whenever such a naturopath has been judged to have demonstrated his/her incompetency or negligence in the practice of naturopathy, or has otherwise committed unprofessional conduct, or is a mentally or physically disabled naturopath. These requirements do not supersede any federal or state law.

NEW SECTION

WAC 308-130-400 COOPERATION WITH INVESTIGATION. (1) A licensee must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the director of the department of licensing by submitting the requested items within fourteen calendar days of receipt of the request by either the licensee or their attorney, whichever is first. If the licensee fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

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

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

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

NEW SECTION

WAC 308-173-010 GENERAL PROVISIONS.

(1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of licensing, whose address is:

Department of Licensing
Professional Programs Management Division
P.O. Box 9649
Olympia, Washington 98504-8001

(5) "Nursing assistant" means a person certified pursuant to chapter 267, Laws of 1988.

(6) "Mentally or physically disabled nursing assistant" means a nursing assistant who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice nursing assistance with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

NEW SECTION

WAC 308-173-020 MANDATORY REPORTING. (1) All reports required by this chapter shall be

submitted to the department as soon as possible, but no later than twenty days after a determination is made.

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

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

(b) The name and address and telephone numbers of the nursing assistant being reported.

(c) The case number of any patient whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

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

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

(5) The administrator, executive officer, or their designee of any nursing home shall report to the department of licensing when any nursing assistant under chapter 18.130 RCW is terminated or such person's services are restricted based on a determination that the nursing assistant has committed an act or acts which may constitute unprofessional conduct as defined in RCW 18.130.180 or that the nursing assistant may be mentally or physically impaired as defined in RCW 18.130.170.

(6) The administrator, executive officer, or their designee of any nursing home shall report to the department of licensing when any person practices, or offers to practice as a nursing assistant in the state of Washington when the person is not registered in the state; or when a person uses any title, abbreviation, card, or device to indicate the person is registered when the person is not.

(7) The department of licensing requests the assistance of responsible personnel of any state or federal program operating in the state of Washington, under which a nursing assistant is employed, to report to the department whenever such a nursing assistant is not registered pursuant to this act or when such a nursing assistant has committed an act or acts which may constitute unprofessional conduct as defined in RCW 18.130.180 or may be mentally or physically impaired as defined in RCW 18.130.170.

NEW SECTION

WAC 308-173-070 COURTS. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of nursing assistants, other than minor traffic violations.

NEW SECTION

WAC 308-173-080 STATE AND FEDERAL AGENCIES. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a nursing assistant is employed to provide patient care services, to report to the department whenever such a nursing assistant has been judged to have demonstrated his/her incompetency or negligence in the practice of nursing assistance, or has otherwise committed unprofessional conduct, or is a mentally or physically disabled nursing assistant. These requirements do not supersede any state or federal law.

NEW SECTION

WAC 308-173-090 COOPERATION WITH INVESTIGATION. (1) A certificant or registrant must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the director of the department of licensing by submitting the requested items within fourteen calendar days of receipt of the request by either the certificant or registrant or their attorney, whichever is first. If the certificant or registrant fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

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

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

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

Chapter 308-177 WAC
DIETITIANS OR NUTRITIONISTS

WAC	
308-177-010	General provisions.
308-177-020	Mandatory reporting.
308-177-030	Health care institutions.
308-177-040	Dietitian or nutritionist associations or societies.
308-177-050	Health care service contractors and disability insurance carriers.
308-177-060	Professional liability carriers.

308-177-070	Courts.
308-177-080	State and federal agencies.
308-177-090	Cooperation with investigation.

NEW SECTION

WAC 308-177-010 GENERAL PROVISIONS. (1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of licensing, whose address is:

Department of Licensing
Professional Programs Management Division
P.O. Box 9649
Olympia, Washington 98504-8001

(5) "Dietitian or nutritionist" means a person certified pursuant to chapter 277, Laws of 1988.

(6) "Mentally or physically disabled dietitian or nutritionist" means a dietitian or nutritionist who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice dietetics or general nutrition services with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

NEW SECTION

WAC 308-177-020 MANDATORY REPORTING. (1) All reports required by this chapter shall be submitted to the department as soon as possible, but no later than twenty days after a determination is made.

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

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

(b) The name and address and telephone numbers of the dietitian or nutritionist being reported.

(c) The case number of any client whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

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

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

NEW SECTION

WAC 308-177-030 HEALTH CARE INSTITUTIONS. The chief administrator or executive officer or designee of any hospital or nursing home shall report to the department when any dietitian or nutritionist's services are terminated or are restricted based on a determination that the dietitian or nutritionist has either committed an act or acts which may constitute unprofessional conduct or that the dietitian or nutritionist may be unable to practice with reasonable skill or safety to clients by reason of a physical or mental condition.

NEW SECTION

WAC 308-177-040 DIETITIAN OR NUTRITIONIST ASSOCIATIONS OR SOCIETIES. The president or chief executive officer of any dietitian or nutritionist association or society within this state shall report to the department when the association or society determines that a dietitian or nutritionist has committed unprofessional conduct or that a dietitian or nutritionist may not be able to practice dietetics or general nutrition services with reasonable skill and safety to clients as the result of any mental or physical condition. The report required by this section shall be made without regard to whether the certificate holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 308-177-050 HEALTH CARE SERVICE CONTRACTORS AND DISABILITY INSURANCE CARRIERS. The executive officer of every health care service contractor and disability insurer, licensed under chapters 48.20, 48.21, 48.21A, and 48.44 RCW, operating in the state of Washington shall report to the department all final determinations that a dietitian or nutritionist has engaged in fraud in billing for services.

NEW SECTION

WAC 308-177-060 PROFESSIONAL LIABILITY CARRIERS. Every institution or organization providing professional liability insurance directly or indirectly to dietitians or nutritionists shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured dietitian or nutritionist's incompetency or negligence in the practice of dietetics or general nutrition services. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the dietitian or nutritionist's alleged incompetence or negligence in the practice of dietetics or general nutrition services.

NEW SECTION

WAC 308-177-070 COURTS. The department requests the assistance of the clerk of trial courts within

the state to report all professional malpractice judgments and all convictions of dietitians or nutritionists, other than minor traffic violations.

NEW SECTION

WAC 308-177-080 STATE AND FEDERAL AGENCIES. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a dietitian or nutritionist is employed to provide patient care services, to report to the department whenever such a dietitian or nutritionist has been judged to have demonstrated his/her incompetency or negligence in the practice of dietetics or general nutrition services, or has otherwise committed unprofessional conduct, or is a mentally or physically disabled dietitian or nutritionist. These requirements do not supersede any federal or state law.

NEW SECTION

WAC 308-177-090 COOPERATION WITH INVESTIGATION. (1) A certificant must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the director of the department of licensing by submitting the requested items within fourteen calendar days of receipt of the request by either the certificant or their attorney, whichever is first. If the certificant fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

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

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

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

NEW SECTION

WAC 308-180-290 GENERAL PROVISIONS. (1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of licensing, whose address is:

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

(5) "Acupuncturist" means a person certified under chapter 18.06 RCW.

(6) "Mentally or physically disabled acupuncturist" means an acupuncturist who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice acupuncture with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

NEW SECTION

WAC 308-180-300 MANDATORY REPORTING. (1) All reports required by this chapter shall be submitted to the department as soon as possible, but no later than twenty days after a determination is made.

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

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

(b) The name and address and telephone numbers of the acupuncturist being reported.

(c) The case number of any patient whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

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

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

NEW SECTION

WAC 308-180-310 HEALTH CARE INSTITUTIONS. The chief administrator or executive officer or their designee of any hospital or nursing home shall report to the department when any acupuncturist's services are terminated or are restricted based on a determination that the acupuncturist has either committed an act or acts which may constitute unprofessional conduct or that the acupuncturist may be mentally or physically disabled.

NEW SECTION

WAC 308-180-320 ACUPUNCTURE ASSOCIATIONS OR SOCIETIES. The president or chief executive officer of any acupuncture association or society

within this state shall report to the department when the association or society determines that an acupuncturist has committed unprofessional conduct or that an acupuncturist may not be able to practice acupuncture with reasonable skill and safety to patients as the result of any mental or physical condition. The report required by this section shall be made without regard to whether the license holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 308-180-330 HEALTH CARE SERVICE CONTRACTORS AND DISABILITY INSURANCE CARRIERS. The executive officer of every health care service contractor and disability insurer, licensed under chapters 48.20, 48.21, 48.21A, and 48.44 RCW, operating in the state of Washington shall report to the department all final determinations that an acupuncturist has engaged in fraud in billing for services.

NEW SECTION

WAC 308-180-340 PROFESSIONAL LIABILITY CARRIERS. Every institution or organization providing professional liability insurance directly or indirectly to acupuncturists shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured acupuncturist's incompetency or negligence in the practice of acupuncture. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the acupuncturist's alleged incompetence or negligence in the practice of acupuncture.

NEW SECTION

WAC 308-180-350 COURTS. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of licensed acupuncturists, other than minor traffic violations.

NEW SECTION

WAC 308-180-360 STATE AND FEDERAL AGENCIES. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which an acupuncturist is employed to provide patient care services, to report to the department whenever such an acupuncturist has been judged to have demonstrated his/her incompetency or negligence in the practice of acupuncture, or has otherwise committed unprofessional conduct. These requirements do not supersede any federal or state law.

NEW SECTION

WAC 308-180-370 COOPERATION WITH INVESTIGATION. (1) A certificant must comply with a

request for records, documents, or explanation from an investigator who is acting on behalf of the director of the department of licensing by submitting the requested items within fourteen calendar days of receipt of the request by either the certificant or their attorney, whichever is first. If the certificant fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

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

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

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

Chapter 308-183 WAC RADIOLOGICAL TECHNOLOGISTS

WAC

308-183-010	General provisions.
308-183-020	Mandatory reporting.
308-183-030	Health care institutions.
308-183-040	Radiological technologist associations or societies.
308-183-050	Professional liability carriers.
308-183-060	Courts.
308-183-070	State and federal agencies.
308-183-080	Cooperation with investigation.

NEW SECTION

WAC 308-183-010 GENERAL PROVISIONS.

(1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of licensing, whose address is:

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

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

(6) "Mentally or physically disabled radiological technologist" means a radiological technologist who is

currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice radiological technology with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

NEW SECTION

WAC 308-183-020 MANDATORY REPORTING. (1) All reports required by this chapter shall be submitted to the department as soon as possible, but no later than twenty days after a determination is made.

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

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

(b) The name and address and telephone numbers of the radiological technologist being reported.

(c) The case number of any client whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

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

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

NEW SECTION

WAC 308-183-030 HEALTH CARE INSTITUTIONS. The chief administrator or executive officer or their designee of any hospital or nursing home shall report to the department when any radiological technologist's services are terminated or are restricted based on a determination that the radiological technologist has either committed an act or acts which may constitute unprofessional conduct or that the radiological technologist may be unable to practice with reasonable skill or safety to clients by reason of a mental or physical condition.

NEW SECTION

WAC 308-183-040 RADIOLOGICAL TECHNOLOGIST ASSOCIATIONS OR SOCIETIES. The president or chief executive officer of any radiological technologist association or society within this state shall report to the department when the association or society determines that a radiological technologist has committed unprofessional conduct or that a radiological technologist may not be able to practice radiological technology with reasonable skill and safety to clients as the result of any mental or physical condition. The report

required by this section shall be made without regard to whether the certificate holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 308-183-050 PROFESSIONAL LIABILITY CARRIERS. Every institution or organization providing professional liability insurance directly or indirectly to radiological technologists shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured radiological technologist's incompetency or negligence in the practice of radiology technology. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the radiological technologist's alleged incompetence or negligence.

NEW SECTION

WAC 308-183-060 COURTS. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of certified radiological technologists, other than minor traffic violations.

NEW SECTION

WAC 308-183-070 STATE AND FEDERAL AGENCIES. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a radiological technologist is employed to provide client care services, to report to the department whenever such a radiological technologist has been judged to have demonstrated his/her incompetency or negligence in the practice of radiological technology, or has otherwise committed unprofessional conduct, or is a mentally or physically disabled radiological technologist. These requirements do not supersede any federal or state law.

NEW SECTION

WAC 308-183-080 COOPERATION WITH INVESTIGATION. (1) A certificant must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the director of the department of licensing by submitting the requested items within fourteen calendar days of receipt of the request by either the certificant or their attorney, whichever is first. If the certificant fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

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

(3) If the certificant fails to comply with the request within three business days after receiving the reminder,

a subpoena will be served to obtain the requested items. A statement of charges may be issued pursuant to RCW 18.130.180(8) for failure to cooperate. If there is sufficient evidence to support additional charges, those charges may be included in the statement of charges.

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

Chapter 308-190 WAC COUNSELORS

WAC

308-190-060	General provisions.
308-190-070	Mandatory reporting.
308-190-080	Health care institutions.
308-190-090	Counselor associations or societies.
308-190-100	Health care service contractors and disability insurance carriers.
308-190-110	Professional liability carriers.
308-190-120	Courts.
308-190-130	State and federal agencies.
308-190-140	Cooperation with investigation.

NEW SECTION

WAC 308-190-060 GENERAL PROVISIONS.

(1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of licensing, whose address is:

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

(5) "Counselor" means a person registered pursuant to chapter 18.19 RCW.

(6) "Mentally or physically disabled counselor" means a counselor who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice counseling with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

NEW SECTION

WAC 308-190-070 MANDATORY REPORTING. (1) All reports required by this chapter shall be submitted to the department as soon as possible, but no later than twenty days after a determination is made.

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

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

(b) The name and address and telephone numbers of the registered counselors being reported.

(c) The case number of any client whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

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

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

NEW SECTION

WAC 308-190-080 HEALTH CARE INSTITUTIONS. The chief administrator or executive officer or their designee of any hospital or nursing home or alcohol treatment agency as defined in chapters 70.96 and 70.96A RCW, drug treatment agency as defined in chapter 69.54 RCW, and public and private mental health treatment agencies as defined in RCW 71.05.020 (6) and (7), and 71.24.025(3), shall report to the department when any registered counselor's services are terminated or are restricted based upon a determination that the registered counselor has committed an act which may constitute unprofessional conduct or that the registered counselor may be unable to practice with reasonable skill or safety to clients by reason of a mental or physical condition.

NEW SECTION

WAC 308-190-090 COUNSELOR ASSOCIATIONS OR SOCIETIES. The president or chief executive officer of any counselor association or society within this state shall report to the department when the association or society determines that a registered counselor has committed unprofessional conduct or that a registered counselor may not be able to practice counseling with reasonable skill and safety to clients as the result of any mental or physical condition. The report required by this section shall be made without regard to whether the registration holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 308-190-100 HEALTH CARE SERVICE CONTRACTORS AND DISABILITY INSURANCE CARRIERS. The executive officer of every health care service contractor and disability insurer, licensed under

chapters 48.20, 48.21, 48.21A, and 48.44 RCW, operating in the state of Washington shall report to the department all final determinations that a registered counselor has engaged in fraud in billing for services.

NEW SECTION

WAC 308-190-110 PROFESSIONAL LIABILITY CARRIERS. Every institution or organization providing professional liability insurance directly or indirectly to registered counselors shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured registered counselor's incompetency or negligence in the practice of counseling. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the counselor's alleged incompetence or negligence in the practice of counseling.

NEW SECTION

WAC 308-190-120 COURTS. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of registered counselors, other than minor traffic violations.

NEW SECTION

WAC 308-190-130 STATE AND FEDERAL AGENCIES. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a registered counselor is employed to provide client care services, to report to the department whenever such a registered counselor has been judged to have demonstrated his/her incompetency or negligence in the practice of counseling, or has otherwise committed unprofessional conduct, or is a mentally or physically disabled counselor. These requirements do not supersede any federal or state law.

NEW SECTION

WAC 308-190-140 COOPERATION WITH INVESTIGATION. (1) A registrant must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the director of the department of licensing by submitting the requested items within fourteen calendar days of receipt of the request by either the registrant or their attorney, whichever is first. If the registrant fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

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

(3) If the registrant fails to comply with the request within three business days after receiving the reminder,

a subpoena will be served to obtain the requested items. A statement of charges may be issued pursuant to RCW 18.130.180(8) for failure to cooperate. If there is sufficient evidence to support additional charges, those charges may be included in the statement of charges.

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

NEW SECTION

WAC 308-195-120 GENERAL PROVISIONS.

(1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of licensing, whose address is:

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

(5) "Respiratory care practitioner" means a person certified pursuant to chapter 18.89 RCW.

(6) "Mentally or physically disabled respiratory care practitioner" means a respiratory care practitioner who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice respiratory care with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

NEW SECTION

WAC 308-195-130 MANDATORY REPORTING. (1) All reports required by this chapter shall be submitted to the department as soon as possible, but no later than twenty days after a determination is made.

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

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

(b) The name and address and telephone numbers of the respiratory care practitioner being reported.

(c) The case number of any patient whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

(3) Mandatory reports shall be exempt from public inspection and copying to the extent permitted under

RCW 42.17.310 or to the extent that public inspection or copying of the report or any portion of the report would invade or violate a person's right to privacy as set forth in RCW 42.17.255.

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

NEW SECTION

WAC 308-195-140 HEALTH CARE INSTITUTIONS. The chief administrator, executive officer, or their designee of any hospital or nursing home shall report to the department when any respiratory care practitioner's services are terminated or are restricted based on a determination that the respiratory care practitioner has either committed an act or acts which may constitute unprofessional conduct or that the respiratory care practitioner may be unable to practice with reasonable skill or safety to clients by reason of any mental or physical condition.

NEW SECTION

WAC 308-195-150 RESPIRATORY CARE PRACTITIONER ASSOCIATIONS OR SOCIETIES.

The president or chief executive officer of any respiratory care practitioner association or society within this state shall report to the department when the association or society determines that a respiratory care practitioner has committed unprofessional conduct or that a respiratory care practitioner may not be able to practice respiratory care with reasonable skill and safety to patients as the result of any mental or physical condition. The report required by this section shall be made without regard to whether the certificate holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 308-195-160 PROFESSIONAL LIABILITY CARRIERS. Every institution or organization providing professional liability insurance directly or indirectly to respiratory care practitioners shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured respiratory care practitioner's incompetency or negligence in the practice of respiratory care. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the respiratory care practitioner's alleged incompetence or negligence.

NEW SECTION

WAC 308-195-170 COURTS. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of certified respiratory care practitioners, other than minor traffic violations.

NEW SECTION

WAC 308-195-180 STATE AND FEDERAL AGENCIES. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a respiratory care practitioner is employed to provide patient care services, to report to the department whenever such a respiratory care practitioner has been judged to have demonstrated his/her incompetency or negligence in the practice of respiratory care, or has otherwise committed unprofessional conduct, or is a mentally or physically disabled respiratory care practitioner. These requirements do not supersede any state or federal law.

NEW SECTION

WAC 308-195-190 COOPERATION WITH INVESTIGATION. (1) A certificant must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the director of the department of licensing by submitting the requested items within fourteen calendar days of receipt of the request by either the certificant or their attorney, whichever is first. If the certificant fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

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

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

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

NEW SECTION

WAC 308-210-080 GENERAL PROVISIONS.

(1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of licensing, whose address is:

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

(5) "Mental health counselor" means a person certified pursuant to chapter 18.19 RCW.

(6) "Mentally or physically disabled mental health counselor" means a mental health counselor who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice mental health counseling with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

NEW SECTION

WAC 308-210-090 MANDATORY REPORTING. (1) All reports required by this chapter shall be submitted to the department as soon as possible, but no later than twenty days after a determination is made.

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

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

(b) The name and address and telephone number of the certified mental health counselor being reported.

(c) The case number of any client/patient whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

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

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

NEW SECTION

WAC 308-210-100 HEALTH CARE INSTITUTIONS. The chief administrator or executive officer or their designee of any hospital or nursing home or alcohol treatment agency as defined in chapters 70.96 and 70.96A RCW, drug treatment agency as defined in chapter 69.54 RCW, and public and private mental health treatment agencies as defined in RCW 71.05.020 (6) and (7), and 71.24.025(3), shall report to the department when any certified mental health counselor's services are terminated or are restricted based upon a determination that the certified mental health counselor has committed an act which may constitute unprofessional conduct or that the certified mental health counselor may be unable to practice with reasonable skill or safety to clients by reason of any mental or physical condition.

NEW SECTION

WAC 308-210-110 MENTAL HEALTH COUNSELOR ASSOCIATIONS OR SOCIETIES. The president or chief executive officer of any mental health counselor association or society within this state shall report to the department when the association or society determines that a certified mental health counselor has committed unprofessional conduct or that a certified mental health counselor may not be able to practice mental health counseling with reasonable skill and safety to clients as the result of any mental or physical condition. The report required by this section shall be made without regard to whether the certificate holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 308-210-120 HEALTH CARE SERVICE CONTRACTORS AND DISABILITY INSURANCE CARRIERS. The executive officer of every health care service contractor and disability insurer, licensed under chapters 48.20, 48.21, 48.21A, and 48.44 RCW, operating in the state of Washington shall report to the department all final determinations that a certified mental health counselor has engaged in fraud in billing for services.

NEW SECTION

WAC 308-210-130 PROFESSIONAL LIABILITY CARRIERS. Every institution or organization providing professional liability insurance directly or indirectly to certified mental health counselors shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured certified mental health counselor's incompetency or negligence in the practice of mental health counseling. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the mental health counselor's alleged incompetence or negligence in the practice of mental health counseling.

NEW SECTION

WAC 308-210-140 COURTS. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of certified mental health counselors, other than minor traffic violations.

NEW SECTION

WAC 308-210-150 STATE AND FEDERAL AGENCIES. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a certified mental health counselor is employed to provide patient/client care services, to report to the department whenever such a certified mental health counselor has been

judged to have demonstrated his/her incompetency or negligence in the practice of mental health counseling, or has otherwise committed unprofessional conduct, or is a mentally or physically disabled certified mental health counselor. These requirements do not supersede any federal or state law.

NEW SECTION

WAC 308-210-160 COOPERATION WITH INVESTIGATION. (1) A certificant must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the director of the department of licensing by submitting the requested items within fourteen calendar days of receipt of the request by either the certificant or their attorney, whichever is first. If the certificant fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

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

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

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

NEW SECTION

WAC 308-220-090 GENERAL PROVISIONS. (1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of licensing, whose address is:

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

(5) "Marriage and family therapist" means a person certified pursuant to chapter 18.19 RCW.

(6) "Mentally or physically disabled marriage and family therapist" means a marriage and family therapist who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice marriage and family counseling with reasonable skill and safety to patients by reason of any mental or physical

condition and who continues to practice while so impaired.

NEW SECTION

WAC 308-220-100 MANDATORY REPORTING. (1) All reports required by this chapter shall be submitted to the department as soon as possible, but no later than twenty days after a determination is made.

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

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

(b) The name and address and telephone numbers of the certified marriage and family therapist being reported.

(c) The case number of any client/patient whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

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

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

NEW SECTION

WAC 308-220-110 HEALTH CARE INSTITUTIONS. The chief administrator or executive officer or their designee of any hospital or nursing home or alcohol treatment agency as defined in chapters 70.96 and 70.96A RCW, drug treatment agency as defined in chapter 69.54 RCW, and public and private mental health treatment agencies as defined in RCW 71.05.020 (6) and (7), and 71.24.025(3), shall report to the department when any certified marriage and family therapist's services are terminated or are restricted based upon a determination that the certified marriage and family therapist has committed an act which may constitute unprofessional conduct or that the certified marriage and family therapist may be unable to practice with reasonable skill or safety to clients by reason of any mental or physical condition.

NEW SECTION

WAC 308-220-120 MARRIAGE AND FAMILY THERAPIST ASSOCIATIONS OR SOCIETIES. The president or chief executive officer of any marriage and family therapist association or society within this state shall report to the department when the association or society determines that a certified marriage and family

therapist has committed unprofessional conduct or that a certified marriage and family therapist may not be able to practice marriage and family therapy with reasonable skill and safety to clients as the result of any mental or physical condition. The report required by this section shall be made without regard to whether the holder of the certificate appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 308-220-130 HEALTH CARE SERVICE CONTRACTORS AND DISABILITY INSURANCE CARRIERS. The executive officer of every health care service contractor and disability insurer, licensed under chapters 48.20, 48.21, 48.21A, and 48.44 RCW, operating in the state of Washington shall report to the department all final determinations that a certified marriage and family therapist has engaged in fraud in billing for services.

NEW SECTION

WAC 308-220-140 PROFESSIONAL LIABILITY CARRIERS. Every institution or organization providing professional liability insurance directly or indirectly to certified marriage and family therapists shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured certified marriage and family therapist's incompetency or negligence in the practice of marriage and family therapy. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the marriage and family therapist's alleged incompetence or negligence.

NEW SECTION

WAC 308-220-150 COURTS. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of certified marriage and family therapists, other than minor traffic violations.

NEW SECTION

WAC 308-220-160 STATE AND FEDERAL AGENCIES. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a certified marriage and family therapist is employed to provide client care services, to report to the department whenever such a certified marriage and family therapist has been judged to have demonstrated his/her incompetency or negligence in the practice of marriage and family therapy, or has otherwise committed unprofessional conduct, or is a mentally or physically disabled certified marriage and family therapist. These requirements do not supersede any federal or state law.

NEW SECTION

WAC 308-220-170 COOPERATION WITH INVESTIGATION. (1) A certificant must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the director of the department of licensing by submitting the requested items within fourteen calendar days of receipt of the request by either the licensee, certificant, or registrant or their attorney, whichever is first. If the certificant fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

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

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

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

NEW SECTION

WAC 308-230-060 GENERAL PROVISIONS. (1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of licensing, whose address is:

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

(5) "Social worker" means a person licensed pursuant to chapter 18.19 RCW.

(6) "Mentally or physically disabled social worker" means a social worker who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice social work with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

NEW SECTION

WAC 308-230-070 MANDATORY REPORTING. (1) All reports required by this chapter shall be submitted to the department as soon as possible, but no later than twenty days after a determination is made.

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

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

(b) The name and address and telephone numbers of the certified social worker being reported.

(c) The case number of any patient/client whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

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

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

NEW SECTION

WAC 308-230-080 HEALTH CARE INSTITUTIONS. The chief administrator or executive officer or their designee of any hospital or nursing home or alcohol treatment agency as defined in chapters 70.96 and 70.96A RCW, drug treatment agency as defined in chapter 69.54 RCW, and public and private mental health treatment agencies as defined in RCW 71.05.020 (6) and (7), and 71.24.025(3), shall report to the department when any certified social worker's services are terminated or are restricted based upon a determination that the certified social worker has committed an act which may constitute unprofessional conduct or that the social worker may be unable to practice with reasonable skill or safety to clients by reason of a mental or physical condition.

NEW SECTION

WAC 308-230-090 SOCIAL WORKER ASSOCIATIONS OR SOCIETIES. The president or chief executive officer of any social worker association or society within this state shall report to the department when the association or society determines that a certified social worker has committed unprofessional conduct or that a certified social worker may not be able to practice social work with reasonable skill and safety to clients as the result of any mental or physical condition. The report required by this section shall be made without regard to whether the certificate holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 308-230-100 HEALTH CARE SERVICE CONTRACTORS AND DISABILITY INSURANCE

CARRIERS. The executive officer of every health care service contractor and disability insurer, licensed under chapters 48.20, 48.21, 48.21A, and 48.44 RCW, operating in the state of Washington shall report to the department all final determinations that a certified social worker has engaged in fraud in billing for services.

NEW SECTION

WAC 308-230-110 PROFESSIONAL LIABILITY CARRIERS. Every institution or organization providing professional liability insurance directly or indirectly to certified social workers shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured certified social worker's incompetency or negligence in the practice of social work. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the social worker's alleged incompetence or negligence.

NEW SECTION

WAC 308-230-120 COURTS. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of certified social workers, other than minor traffic violations.

NEW SECTION

WAC 308-230-130 STATE AND FEDERAL AGENCIES. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a certified social worker is employed to provide client care services, to report to the department whenever such a certified social worker has been judged to have demonstrated his/her incompetency or negligence in the practice of social work, or has otherwise committed unprofessional conduct, or is a mentally or physically disabled certified social worker. These requirements do not supersede any federal or state law.

NEW SECTION

WAC 308-230-140 COOPERATION WITH INVESTIGATION. (1) A licensee must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the director of the department of licensing by submitting the requested items within fourteen calendar days of receipt of the request by either the licensee or their attorney, whichever is first. If the licensee fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

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

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

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

**WSR 89-14-093
PROPOSED RULES
DEPARTMENT OF WILDLIFE
(Wildlife Commission)
[Filed June 30, 1989]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Wildlife Commission intends to adopt, amend, or repeal rules concerning:

- New WAC 232-28-413 1989-90 Upland game bird and migratory waterfowl seasons.
- Rep WAC 232-28-412 1988-89 Upland game bird and migratory waterfowl seasons;

that the agency will at 8:00 a.m., Saturday, August 12, 1989, in the Towne Plaza Motor Inn, North Seventh Street, Yakima, Washington 98901, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 9, 1989.

Dated: June 30, 1989

By: Lee S. Smith

Administrative Regulations Officer

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-28-413 1989-90 Upland game bird and migratory waterfowl seasons.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: Adopts 1989-90 Upland game bird and migratory waterfowl seasons in manner outlined in the 1988-89 pamphlet. Dates and hunting hours will change based upon calendar adjustments and regional recommendations.

Reasons Supporting the Proposed Rule: Resource management.

Agency Personnel Responsible for Drafting and Implementation: Tom Juelson, Assistant Director, Wildlife Management Division, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5728; and Enforcement: Dan Wyckoff, Assistant Director, Wildlife Enforcement Division, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Wildlife.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: No comments.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: Not required.

NEW SECTION

WAC 232-28-413 1989-90 UPLAND GAME BIRD AND MIGRATORY WATERFOWL HUNTING SEASONS.

Reviser's note: The text and accompanying pamphlet comprising the 1989-90 Upland game bird and migratory waterfowl hunting seasons proposed by the Department of Wildlife have been omitted from publication in the Register under the authority of RCW 34.05.210(4) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

The following section of the Washington Administrative Code is hereby repealed.

WAC 232-28-412 1988-89 UPLAND GAME BIRD AND MIGRATORY WATERFOWL SEASONS.

**WSR 89-14-094
PROPOSED RULES
DEPARTMENT OF WILDLIFE
(Wildlife Commission)
[Filed June 30, 1989]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Wildlife Commission intends to adopt, amend, or repeal rules concerning amendment to 1988-89 and 1989-90 Trapping seasons and regulations, adopting WAC 232-28-51101;

that the agency will at 8:00 a.m., Saturday, August 12, 1989, in the Towne Plaza Motor Inn, North Seventh Street, Yakima, Washington 98901, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 9, 1989.

Dated: June 30, 1989

By: Lee S. Smith

Administrative Regulations Officer

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-28-51101 Amendment to 1988-89 and 1989-90 Trapping seasons and regulations.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: The change in opening date for beaver trapping in Snohomish County will standardize as intended the opening dates for beaver trapping in all western Washington counties, except Whatcom. Amending this season will help to protect against beaver-caused damage to public roads, highways, and access areas.

Reasons Supporting the Proposed Rule: Resource management.

Agency Personnel Responsible for Drafting and Implementation: Tom Juelson, Assistant Director, Wildlife Management Division, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, phone (206) 753-5728; and Enforcement: Dan Wyckoff, Assistant Director, Wildlife Enforcement Division, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Wildlife.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: Not required.

NEW SECTION

WAC 232-28-51101 AMENDMENT TO 1988-89 AND 1989-90 TRAPPING SEASONS AND REGULATIONS. Notwithstanding the provisions of WAC 232-28-511, the trapping season for beaver in Snohomish County is November 25, 1989 to December 17, 1989.

**WSR 89-14-095
EMERGENCY RULES
DEPARTMENT OF HEALTH
[Order 2831—Filed July 3, 1989, 8:15 a.m.]**

Date of Adoption: July 3, 1989.

Purpose: The new Administrative Procedure Act (APA), chapter 34.05 RCW, becomes effective July 1,

1989. These rules govern the formal procedures prescribed or authorized by the act, including adjudicative proceedings, declaratory orders, petitions for rule making, and other topics.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: See below.

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

Reasons for this Finding: Section 250 of the new APA [RCW 34.05.250] requires the Chief Administrative

Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. Section 220 (1)(a) [RCW 34.05.220] permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. The model rules were filed on June 15 and become effective on July 15. The result is that if this agency does not adopt its own rules it may have no rules for some critical activities during the first two weeks of July. Further, this agency's rules contain variations from the model rules described in and for the reasons shown below.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Yes, see below.

1. Indicate in the spaces below the rule section affected and the statutory authority.

<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory Authority (RCW or Session Law Chapter)</u>	<u>Reason for variation from Model Rules</u>
248-06-385		Amend		43.21C.120	1. Subsection (2) sets an expected time limit for filing initial and review orders based on the likely complexity of the proceedings and the need for prompt orders. 2. Subsection (3) specifies that the adjudicative officers' authority is to approve the appealed department action or to remand the matter to the department. When an action is not approved this procedure permits the agency to view all its data and get additional information before making a new decision as opposed to having the decision based solely on the adjudicative proceeding record.
248-15-110		Amend		18.71.205	Required by sections 60 and 95, chapters 175, Laws of 1989.
248-16-031		Amend		18.20.909	Required by sections 63 and 95, chapter 175, Laws of 1989.
248-17-060		Amend		Section 106, chapter 9, Laws of 1989 first ex. s.	Required by section 95, chapter 175, Laws of 1989.
248-17-230		Amend		Same	Same
248-18-015		Amend		70.41.030	Required by sections 95 and 128, chapter 175, Laws of 1989.
248-19-480		Amend		70.38.135 (see also section 607, chapter 9, Laws of 1989 first ex. s.)	Required by sections 95 and 126 chapter 175, Laws of 1989.
248-22-005		Amend		Section 106, chapter 9, Laws of 1989 first ex. s.	Required by sections 95 and 137, chapter 175, Laws of 1989.
248-23-010		Amend		Same	Same

248-25-010	Amend	Same	Same
248-26-020	Amend	Same	Same
388-29-020	Amend	18.46.060	Required by sections 63 and 95, chapter 175, Laws of 1989.
248-36-025	Amend	Same	Housekeeping
248-36-035	Amend	Same	Housekeeping
248-36-045	Amend	Same	Housekeeping
248-36-055	Amend	Same	Required by sections 95 and 96, chapter 175, Laws of 1989.
248-55-220	Amend	70.119.050	Required by section 95, chapter 175, Laws of 1989.
248-55-230	Repeal	Same	Housekeeping: provision is in 248-08-413.
248-55-235	New	Same	Housekeeping
248-55-240 and 250	Amend	Same	The presiding officer is a board. The procedure for revocation, suspension, or modification of a certificate is that the presiding officer's order is final when the board rules in favor of the certificate holder but is an initial order when the board rules against the certificate holder. The department is authorized to use an initial order - petition for review - review decision procedure by RCW 34.05.46(1) provided it do so by rule.
248-55-260	Repeal	Same	This section states a right contained in chapter 34.05 RCW so is being repealed.
248-59-030	Amend	70.116.050	1. Subsections (1) and (2) are housekeeping. 2. Subsection (3) is to continue to have these proceedings be based on the facts existing at the time the department acted as opposed to a <u>de novo</u> proceeding. If the parties agree this provision may be set aside. 3. Subsection (4) specifies who has and what is the burden of proof.
248-59-040	Repeal	Same	1. Subsection (1) states the law regarding assigning administrative law judges to department proceedings that can be administratively reviewed, contains obsolete terminology, and incorrect references. As the items are dealt with in other law the subsection is being repealed. 2. Subsections (2) and (3) are being moved to WAC 248-59-030.

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248-59-050	Repeal	Same	1. This section's provisions are included in or conflict with section 95, chapter 175, Laws of 1989 and/or chapter 34.05 RCW and/or the Model Rules or contain requirements in none of those laws. To achieve greater uniformity, they are being repealed.
248-59-060	Repeal	Same	To achieve greater uniformity among all department programs the petition for administrative review procedures in this rule are being repealed in favor of the general provisions in RCW 34.05.464 and WAC 248-08-464.
248-59-070	Repeal	Same	This section is being repealed because it contains provisions that are the same as or conflict with chapter 34.05 RCW and the Model Rules.
248-59-080	Repeal	Same	The section states a right contained in chapter 34.05 RCW so is being repealed.
248-91-060	Amend	Section 106, chapter 9, Laws of 1981 first ex. s.	Required by section 95, chapter 175, Laws of 1989.

Effective Date of Rule: Immediately.

July 1, 1989
 Lucille Christensen
 Acting Secretary

Reviser's note: The material contained in this filing will appear in the 89-15 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 89-14-096
EMERGENCY RULES
BOARD OF HEALTH

[Order 2825—Filed July 3, 1989, 8:19 a.m.]

Date of Adoption: July 3, 1989.

Purpose: The new Administrative Procedure Act (APA), chapter 34.05 RCW becomes effective July 1, 1989. These rules govern the formal procedures prescribed or authorized by the act, including adjudicative proceedings, declaratory orders, petitions for rule making, and other topics.

Citation of Existing Rules Affected by this Order:

Repealing WAC 248-08-001, 248-08-010, 248-08-020, 248-08-030, 248-08-040, 248-08-050, 248-08-060, 248-08-070, 248-08-075, 248-08-080, 248-08-090, 248-08-100, 248-08-110, 248-08-120, 248-08-130, 248-08-140, 248-08-150, 248-08-160, 248-08-170, 248-08-180, 248-08-190, 248-08-200, 248-08-210, 248-08-220, 248-08-230, 248-08-240, 248-08-250, 248-08-260, 248-08-270, 248-08-280, 248-08-290, 248-08-300, 248-08-310, 248-08-320, 248-08-330, 248-08-340, 248-08-350, 248-08-360, 248-08-370, 248-08-380, 248-08-390, 248-08-400, 248-08-420, 248-08-430, 248-08-450, 248-08-460, 248-08-470, 248-08-480, 248-08-490, 248-08-500, 248-08-510, 248-08-520, 248-08-530, 248-08-540, 248-08-550, 248-08-560, 248-08-570, 248-08-580, 248-08-590, 248-08-596, 248-08-700, 248-08-705, 248-08-710, 248-08-715, 248-08-720, 248-08-725, 248-08-730, 248-08-735, 248-08-740, 248-08-750, 248-08-755, 248-08-760, 248-08-765, 248-08-770, 248-08-775, 248-08-780, 248-08-785, 248-08-790, 248-08-800, 248-08-805, 248-08-810, 248-08-815, 248-08-820, 248-08-830, 248-08-835, 248-08-840 and 248-08-845; amending 248-08-410 and 248-08-440; and new WAC 248-08-413, 248-08-425, 248-08-431, 248-08-434, 248-08-437, 248-08-446, 248-08-449, 248-08-452, 248-08-461, 248-08-464, 248-08-470, 248-08-515, 248-08-525, 248-08-535, 248-08-545, 248-08-565, 248-320-350, 248-320-360, 248-320-370, 248-320-400 and 248-320-410.

Statutory Authority for Adoption: RCW 43.20.050.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the

public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Section 250 of the new APA [RCW 34.05.250] requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. Section 220 (1)(a) [RCW 34.05.220] permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. The model rules were filed on June 15 and become effective on July 15. The result is that if this agency does not adopt its own rules it may have no rules for some critical activities during the first two weeks of July. Further, this agency's rules contain variations from the model rules described in and for the reasons shown below.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Yes, see below.

PARALLEL TABLE:

APA - DOH Procedural Rules - Model Procedural Rules

<u>34.05 Section</u>	<u>248-08 Section</u>	<u>10-08 Section</u>	<u>248-08 same as/ different as from 10-08</u>
Adjudicative Proceedings			
410	410	001	different
413	413	035	different
425 (see 449(1))	425(1)	None	different
	(2)(a)-(i)	200(1)-(9)	same
	(2)(j)	150	different
	(2)(k)	200(10)	different
(see 050)	(2)(l)	none (but see 040(3))	different
	(3)	050(3)	same
	(4)	none	different
431	431(1),(2)	130(1)-(4)	same
	(3)	130(5)	different
434	434	040	different
437	437	110	different
440	440	none	different
446	446	120	same
449	449(1)	180	different
	(2)	170	same
452	452 (except 7)	140	same
(3)	(7)	160(1)	same
461	461	210	different
464	464	211	different
470	470	215	same
none	515	045	same
none	525	150; 160(2)	same
none	535	none	different
none	545	090	same
none	565	080	same
060; 431(1)	none	230(1)	different
	none	230(2)	different
248-320 Section			
Declaratory Order			
240	350	250	same
240	360	251	same
240	370	252	same
Rule Making			
330	400	260	same
330	410	261	same

		CHAPTERS 10-08 AND 248-08 WAC				
248-08 section	10-08 section	comparison of the two chapters and reasons for variations		425(3)	050(2)	right to representation.
410	001	Purpose - Application of this chapter				Section 3 is the same as Model Rule 050(2) reworded for ease of reading and understanding.
		The DOH section differs from the model section because the purpose of each chapter is different. Chapter 10-08 WAC is a model for all agencies while chapter 248-08 applies only to DOH. The DOH section also gives the presiding and reviewing officers' addresses so the public will know where to file documents.		425(4)	none	APA section 425(6) states that the APA petition for disqualification provision is in addition to the RCW 34.12.050 motion of prejudice. The procedure for the APA petition differs from an RCW 34.12.040 motion. The Model Rules do not make the differences clear. The variation in the DOH rule is to clarify the differences.
413	035	Application		431	130	Prehearing Conference
		The Model Rule requires an application to be written. The DOH rule follows the Model Rule and specifies the minimum contents of an application. The Model Rule does not state who can file, where to file, and how to file an application. The DOH rule does.				The Model Rule is reworded and renumbered to make reading and understanding easier.
25	040(3), 050(2), 190, 200, and none	Presiding Officers - Disqualification		434	040	Notice of Hearing
						Subsections 1 and 2 of the Model Rule are reworded to make reading and understanding easier.
25(1)	none	The Secretary intends that adjudicative proceedings be <u>de novo</u> and that the department's rule be the first source of authority in conducting and deciding adjudicative proceedings. Implicit in the concept of an adjudicative proceeding is that it be <u>de novo</u> . This rule makes that explicit. The APA at section 449(1) states that agency rules are to be used in the conduct of the proceeding but it and the Model Rules are silent on the order of precedence for the source of law to be used in deciding the issue. This rule covers that gap.				Subsection 3 of the Model Rule permitting waiver of defects in the notice of hearing is not carried into the DOH rule because RCW 34.05.050 covers waivers well. The presiding officer's authority to permit a waiver is in DOH rule section 425(2)(1).
				437	110	Filing and Service of Papers
						The Model Rule is reworded to make reading and understanding easier. Subsection 4 of the Model Rule stating filing of papers on the agency is complete upon receipt at any office of the agency is changed to require receipt at the Office of Appeals. The department's adjudicative proceeding rules require filing at that office.
25(2)(a)-(i)	200(1)-(9)	The first nine subsections of the DOH rule are the same as Model Rule 200(1) through (9).		440	none	Default
25(2)(j)	190	The tenth subsection comes from Model Rule 190 as limited by APA section 449(5).				There is no Model Rule dealing with vacating an application that had been dismissed. The APA provides that the time to file a motion to vacate a default dismissal is seven days unless a longer period is set by agency rule. This DOH rule sets a 14 day period after service of the order to file a motion to vacate a dismissal based on a default or a withdrawal and it contains the procedures.
25(2)(k)	200(10)	Model Rule 200(10) empowers the presiding officer to take any action "necessary and authorized by statute or rule." The DOH rule at subsection (2)(k) deletes "statute" so as to limit the presiding officer's authority to that conferred by rule. This is not intended to preclude the presiding officer from taking action based on statute, but to condition his or her use of non-DOH rules in accordance with subsection (1) of this DOH rule.		446	120	Subpoenas
25(2)(l)	see 040(3)	Subsection (2)(1) is intended to broaden the scope of Model Rule 040(3) as envisioned by APA section 050 and to explicitly state the presiding officer's authority to permit a waiver. Situations arise in DOH hearings where presiding officers must rule on whether a person has waived a right; an example is whether a person who appears <u>pro se</u> at the hearing has knowingly waived the		449	170;180	Procedure at Hearing
				449(1)	180	APA section 449(3) permits a hearing to be conducted by electronic

		means. Model Rule section 180 treats this subject. DOH section 449(1) differs from Model Rule by stating the department's concurrence to conducting hearings by electronic means so that agreement in each case is not necessary.			Rules. It states the agency will give the nonpetitioning party notice that a petition for administrative review was filed. This is to assure that the party is aware of the petition and apprized of the right to respond. The section is necessary because some petitioners, especially <u>pro se</u> clients, fail to serve the other party. The department's curing the error is preferable to dismissing the petition on the procedural defect.
449(2)	170	APA section 449(4) deals with how oral proceedings are preserved. This is treated in Model Rule 170. DOH section 449(2) is the same as the Model Rule.			
452	140;160(1)	Rules of Evidence The first five subsections of this DOH rule are the same as Model Rule section 140 with rewording for easier reading and understanding. The sixth subsection differs from Model Rule 140(6) by permitting withdrawal of a stipulation or admission during the proceedings instead of cutting of the right at "closure of the hearing." The cause for a party's seeking to withdraw could occur after closure and the department prefers to give the party in such a situation the opportunity to seek relief. The last subsection, requiring testimony to be under oath or affirmation, is contained in APA section 452(3) and is the same as Model Rule 160(1).	470	215	Reconsideration The DOH rule is the same as the Model Rule except it states the specific address for filing a petition for reconsideration of a review decision.
			515	045	Notice to Limited-English Speaking Parties DOH section 515 is the same as Model Rule 045 with slight wording changes for clarity.
461	210	Entry of Orders The DOH rule differs from Model Rule section 210 only where necessary to make the Model Rule apply to initial orders. Nearly all DOH programs use the initial order - petition for review - review order process.	525	150;160(2)	Interpreters DOH section 525(1) through (11) is the same as Model Rule 150(1) through (11). DSHS Section 525(12) is the same as Model Rule 160(2). DSHS section 525(13) through (18) is the same as Model Rule 150(12) through (17).
464	211	Review of Initial Orders DOH section 464 loosely follows Model Rule section 211. Differences are: . Subsection 2 of the DOH rule states the petition must be in writing, specifies where it is to be filed, and sets a fourteen day time limit which can be extended or waived by a reviewing officer. The first two changes are housekeeping. The third is a change from the Model Rule which sets a 20 day petition filing period or different place and time as stated in the initial order. This was rejected as (a) too rigid a time frame, (b) too long, or if the presiding officer sets a different time/place, too uncertain to assure that adjudicative orders in DOH benefit programs will be made within required time limits. . Subsection 4 is the department's rule providing that initial orders in specified classes of cases become final without further department action when no petition for review is filed. Legal authority for this provision is APA section 464(1). . Subsection 5 of the DOH rule has no counterpart in the Model	535	none	Group Hearing This section has no counterpart in the Model Rules. The department has consolidated applications for adjudicative proceedings filed by different people when each appeared to raise the same question of law. The rule contains safeguards in that any person in a group hearing may request to withdraw from the group in favor of an individual hearing and each member of the group is entitled to representation of his or her choice.
			545	090	Continuance DOH section 545 is the same as Model Rule section 080 with slight rewording for clarity.
			565	080	Computation of Time DOH section 565 is the same as Model Rule section 090.
			none	230(1)	Informal Settlement

The APA section 060 encourages agencies to offer informal settlement procedures that may make more elaborate proceedings unnecessary. The APA section permits an agency to establish informal settlement procedures by rule. The Model Rule would establish a single procedure for all informal settlements. The department is not adopting the Model Rule for two reasons. First, the department has created many informal settlement processes and they are tailored to best meet the needs of the kinds of disputes that arise in a particular program. The Model Rule's uniform procedure does not recognize this need for various procedures. While the department may adopt some informal settlement procedures in rules, the department prefers to be able to use nonrule form for some informal settlements (for example, the disputes clause in most department contracts).

none 230(2) Model Rule 230(2) deals with settlements in adjudicative proceedings. These settlements are, under the Model Rule, concluded by stipulation of the parties, withdrawal of the application, or withdrawal of the aggrieving agency action. The Model Rule then requires the stipulation to be signed by the parties or recited on the record and for the presiding officer to enter an appropriate order. The procedure for stipulations under this Model Rule provision appears to differ from a stipulation obtained at a prehearing conference. See Model Rules 130(1)(c), (3) and 170. The content of the settlement order appears to differ from that specified for initial orders in Model Rule 461. The department has not proposed to adopt Model Rule 230(2) to avoid these possible conflicts and because its proposed 248-08 sections 425(2)(j); 431(1)(c), (3), and (4); 440; 452(6); 461; and 464 cover the topic adequately and consistently.

CHAPTERS 10-08 AND 248-320 WAC

248-320 section	10-08 section	comparison of the two chapters and reasons for variations
350	250	The department's rule is the same as the Model Rule.
360	251	Same
370	252	Same
400	260	Same
410	261	Same

Effective Date of Rule: Immediately.

June 30, 1989
Paul Trause
Deputy Secretary

AMENDATORY SECTION (Regulation 08.410, effective 3/11/60)

~~WAC 248-08-410 ((FORM AND CONTENT)) APPLICATION OF ((DECISIONS IN CONTESTED CASES)) CHAPTER 248-08 WAC. ((Every decision and order, whether proposed, initial, or final, shall:))~~

~~(1) ((Be correctly captioned as to name of agency and name of proceeding;)) This chapter applies to adjudicative proceedings in programs administered by the department of health. Legal authority for adopting this chapter is RCW 34.05.220(1)(a).~~

~~(2) ((Designate all parties and counsel to the proceeding;)) If a provision in this chapter conflicts with a provision in the chapter containing the program's substantive rules, the provision in the chapter containing the program's substantive rules governs.~~

~~(3) ((Include a concise statement of the nature and background of the proceeding;~~

~~(4) Be accompanied by appropriate numbered findings of fact and conclusions of law;~~

~~(5) Whenever practical, include the reason or reasons for the particular order or remedy afforded;~~

~~(6) Wherever practical, be referenced to specific provisions of law and/or regulations appropriate thereto; together with reasons and precedents relied upon to support the same)) The presiding officer is generally an administrative law judge (ALJ) from the office of administrative hearings. Presiding officer administrative and field office addresses are listed under WAC 10-04-020. The reviewing officer is generally the secretary or a review judge from the department of social and health services' office of appeals. The office of appeals is located in office building number 2, Olympia, and the mailing address is Office of Appeals, P.O. Box 2465, Olympia, WA 98504.~~

NEW SECTION

WAC 388-08-413 APPLICATION FOR AN ADJUDICATIVE PROCEEDING. A person contesting a department decision shall within twenty-eight days of receipt of the decision:

(1) 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

(2) Include in or with the application:

(a) A specific statement of the issue or issues and law involved;

(b) The grounds for contesting the department decision; and

(c) A copy of the contested department decision.

Reviser's note: The section above was filed by the agency as WAC 388-08-413. However, the other rules for the Board of Health are found in Title 248 WAC. The section above appears to be WAC 248-08-413, but pursuant to the requirements of RCW 34.08.040, it is published in the same form as filed by the agency.

NEW SECTION

WAC 248-08-425 ADMINISTRATIVE LAW JUDGE (ALJ)—DISQUALIFICATION. (1) The ALJ shall:

(a) Conduct the hearing de novo;

(b) Apply as the first source of law governing an issue the rules of the department as adopted in the Washington Administrative Code (WAC);

(c) If there is no department rule governing the issue, resolve the issue on the basis of the best legal authority and reasoning available, including that found in federal

and Washington constitutions, statutes and regulations, and court decisions;

(d) Not have the power to declare invalid any department rule;

(e) If the validity of any department rule is raised as an issue at any proceeding, permit arguments to be made on the record concerning that issue for subsequent review purposes; and

(f) If the sole issue is one of federal or state law requiring automatic assistance, benefit, scope of program, or fee or regulation adjustments for classes of people the department serves or regulates, dismiss the application without permitting argument to be made on the record regarding the validity of the law.

(2) The ALJ shall have the authority to:

(a) Determine the order of presentation of evidence;

(b) Administer oaths and affirmations;

(c) Issue subpoenas;

(d) Rule on procedural matters, objections, and motions;

(e) Rule on offers of proof and receive relevant evidence;

(f) Interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;

(g) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;

(h) Take any appropriate action necessary to maintain order during the hearing;

(i) Permit or require oral argument or briefs and determine the time limits for submission thereof;

(j) Permit photographic and recording equipment at hearings subject to conditions imposed by the ALJ to preserve confidentiality or to prevent disruption;

(k) Except to the extent not precluded by another provision of law, permit a person to waive any right conferred upon that person by chapters 34.05 RCW and/or chapter 248-08 WAC; and

(l) Take any other action necessary and authorized by any applicable rule.

(3) A motion of prejudice with a supporting affidavit under RCW 34.12.050 shall be filed three days or more before the hearing or any earlier stage of the adjudicative proceeding when the ALJ may be required to issue a discretionary ruling. If the notice of hearing does not state the name of the presiding ALJ, the chief ALJ of the office of administrative hearings shall:

(a) Make such assignment five days or more before the hearing; and

(b) Disclose the assignment to any party or representative making inquiry.

(4) The chief ALJ or designee shall rule upon subsequent motions of prejudice filed by the same party in the same proceeding.

(5) An individual petitioning to disqualify an ALJ under RCW 34.05.425 shall file such petition with the ALJ assigned to preside over the proceeding.

NEW SECTION

WAC 248-08-431 PREHEARING CONFERENCE. (1) Upon the administrative law judge (ALJ)'s own motion or upon request of a party, the ALJ may direct the parties or the parties' representatives to engage in a prehearing conference.

(a) The purpose of a prehearing conference is to consider:

(i) Simplification of issues;

(ii) The necessity or desirability of amendments to the pleadings;

(iii) The possibility of obtaining stipulations, admissions of fact, and admissions of the authenticity of documents to avoid unnecessary proof;

(iv) Limitations on the number and consolidation of the examination of witnesses;

(v) Procedural matters;

(vi) Distribution of written testimony and exhibits to the parties before the hearing; and

(vii) Such other matters as may aid in the disposition or settlement of the proceeding.

(b) Prehearing conferences may be held by telephone conference call or at a time and place specified by the ALJ.

(c) Following the prehearing conference, the ALJ shall issue an order reciting the:

(i) Action taken at the conference;

(ii) Amendments allowed to the pleadings; and

(iii) Agreements made by the parties concerning all of the matters considered.

(d) If no objection to such order is filed within ten days after the date such order is mailed, the order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(2) Nothing in this rule shall limit the ALJ during any proceeding from conducting a conference before the taking of testimony or recessing the hearing and conducting a conference. The ALJ shall state on the record the results of such conference.

(3) Nothing in this rule shall limit the right of any agency to informally settle a matter to make an adjudicative proceeding unnecessary.

NEW SECTION

WAC 248-08-434 NOTICE OF HEARING. (1) The department or the office of administrative hearings shall serve a notice of hearing on the parties and representatives:

(a) Within the time required by the law governing the proceeding; and

(b) In the absence of a specific legal requirement, not less than seven days before the date set for the hearing.

(2) The notice shall include the information specified under RCW 34.05.434 and, if the hearing is conducted by teleconference call, the notice shall so state.

(3) The notice shall state:

(a) If a limited English-speaking or hearing impaired party or witness needs an interpreter, a qualified interpreter shall be appointed; and

(b) There shall be no cost to the party or witness.

(4) The notice shall include a form for a party to:

- (a) Indicate the need for an interpreter, and
- (b) Identify the primary language or hearing impaired status of the person.

NEW SECTION

WAC 248-08-437 FILING AND SERVICE OF PAPERS. (1) A party filing a pleading, brief, or other paper with the administrative law judge (ALJ) shall serve a copy of the paper upon:

- (a) The other party; or
 - (b) If the other party is represented or has an agent, the other party's representative or agent.
- (2) Service shall be made personally or, unless otherwise provided by law, by:
- (a) First class, registered, or certified mail;
 - (b) Telegraph;
 - (c) Electronic telefacsimile transmission and same-day mailing of copies; or
 - (d) Commercial parcel delivery company.
- (3) Service shall be regarded as completed when:
- (a) Mail is properly stamped, addressed, and deposited in the United States mail;
 - (b) A telegram is properly addressed and deposited with a telegraph company with charges prepaid;
 - (c) An electronic telefacsimile transmission produces proof of transmission; or
 - (d) A commercial parcel is delivered to the parcel delivery company with charges prepaid.
- (4) Papers required to be filed with the department shall be deemed filed upon actual receipt during office hours at the office of appeals. Papers required to be filed with the ALJ shall be deemed filed upon actual receipt during office hours at the office of the ALJ.
- (5) Where proof of service is required by statute or rule, filing the papers with the ALJ, together with one of the following, shall constitute proof of service:
- (a) An acknowledgement of service;
 - (b) The person signs the certificate on the date the certificate papers are served upon all parties of record in the proceeding and by delivering a copy in person to (names); and
 - (c) The person signs the certificate on the date the certificate papers are served upon all parties of record in the proceeding by:
 - (i) Mailing a copy properly addressed with postage prepaid to each party, the proceeding, or the party's representative or authorized agent; or
 - (ii) Telegraphing a copy properly addressed with charges prepaid to each party, the proceeding, or the party's representative or authorized agent; or
 - (iii) Transmitting a copy by electronic telefacsimile device and, on the same day, mailing a copy to each party, the proceeding, or the party's representative or authorized agent; or
 - (iv) Depositing a copy properly addressed with charges prepaid with a commercial parcel delivery company.

AMENDATORY SECTION (Regulation 08.440, effective 3/11/60)

WAC 248-08-440 (~~PREHEARING CONFERENCE RULE-RECORD~~) VACATING A DISMISSAL FOR REASON OF ((CONFERENCE ACTION)) DEFAULT OR WITHDRAWAL. ((The board or department or its designated hearing officer shall make an order or statement which recites the action taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements, and such order or statement shall control the subsequent course of the proceeding unless modified for)) (1) A party against whom a dismissal for reason of default or withdrawal is entered shall have the right to file a written motion requesting the order be vacated.

(2) The motion shall be filed at the Office of Appeals, P.O. Box 2465, Olympia, WA 98504, within fourteen days from the date the dismissal order was served.

(3) The motion shall state the grounds relied upon.

(4) If, in the reasoned opinion of the administrative law judge (ALJ), good cause ((by subsequent order)) to grant the relief is shown, the ALJ shall vacate the dismissal and reinstate the application.

NEW SECTION

WAC 248-08-446 SUBPOENAS. (1) Subpoenas shall be issued and enforced and witness fees paid, as provided under RCW 34.05.446.

(2) Every subpoena shall:

- (a) Identify the party causing issuance of the subpoena;
- (b) State the name of the agency as the department of health;
- (c) State the title of the proceeding; and
- (d) Command the person to whom the subpoena is directed to attend and give testimony or produce designated books, documents, or things under the person's control at the time and place set for the hearing.

(3) A subpoena may be served by any suitable person eighteen years of age or older by:

- (a) Exhibiting and reading the subpoena to the witness;
 - (b) Giving the witness a copy; or
 - (c) Leaving a copy at the place of the witness' residence.
- (4) When a subpoena is served by other than an officer authorized to serve process, proof of service shall be made by affidavit.

(5) The administrative law judge, upon motion made promptly and in any event at or before the time specified for compliance in the subpoena, may:

- (a) Quash or modify the subpoena if the subpoena is unreasonable and oppressive; or
- (b) Condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

NEW SECTION**WAC 248-08-449 PROCEDURE AT HEARING.**

(1) The administrative law judge (ALJ) may conduct all or part of the hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

(2) When the hearing is conducted by electronic means, documentary evidence shall be submitted in advance as provided under WAC 248-08-452(2).

(3) The ALJ shall record the hearing by manual, electronic, or other type of recording device.

NEW SECTION**WAC 248-08-452 RULES OF EVIDENCE. (1)**

The administrative law judge (ALJ) shall rule upon objections to the admissibility of evidence pursuant to RCW 34.05.452.

(2) The ALJ may order:

(a) A party to submit documentary evidence to the ALJ and to the other parties sufficiently in advance of the hearing to permit study and preparation of cross-examination and rebuttal evidence;

(b) Documentary evidence, not submitted in advance, as required in subsection (2)(a) of this section, shall not be received in evidence in the absence of a clear showing the offering party had good cause for failure to produce the evidence sooner, unless the evidence is submitted for impeachment purposes; and

(c) The authenticity of all documents submitted in advance in a proceeding, when such submission is required, to be deemed admitted unless written objection is filed before the hearing. However, a party shall be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to file such written objection.

(3) When portions only of a document are relied upon, the offering party shall identify the pertinent excerpts and state the purpose the materials are offered. Only the excerpts, in the form of copies, shall be received in the record. However, the whole of the original documents, except any portions containing confidential material protected by law, shall be made available for examination and for use by all parties.

(4) No former employee of the department shall, except with the permission of the department, appear as an expert witness on behalf of other parties in a proceeding where the expert witness previously took an active part in the investigation as a department representative.

(5) The refusal of a witness to answer any question ruled proper shall, in the discretion of the ALJ, be grounds for striking all testimony previously given by such witness on the related matter.

(6) A party bound by a stipulation or an admission of record may, at any time during the proceeding, withdraw the same in whole or in part by showing to the satisfaction of the ALJ that:

(a) Such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact; and

(b) The party's withdrawal, at the time proposed, will not unjustly prejudice the rights of other parties to the proceeding.

(7) A person called as a witness in a hearing shall swear or affirm that the testimony the witness is about to give in the hearing shall be the truth under the provisions of RCW 5.28.020, 5.28.030, 5.28.040, 5.28.050, and 5.28.060.

NEW SECTION

WAC 248-08-461 ENTRY OF ORDERS. Every order shall:

(1) Correctly caption both the name of the agency and the proceeding;

(2) Designate the parties and representatives participating in the proceeding;

(3) Include a concise statement of the nature and background of the proceeding;

(4) Contain appropriately numbered findings of fact meeting the requirements under RCW 34.05.461;

(5) Contain appropriately numbered conclusions of law, including citations of relied-upon statutes and rules;

(6) Contain an initial order disposing of the contested issues; and

(7) Contain a statement describing the parties' right to file a petition for review.

NEW SECTION

WAC 248-08-464 PETITION FOR REVIEW—RESPONSE TO PETITION—DISQUALIFICATION OF REVIEW JUDGE. (1) Any party shall have the right to file a petition for review of an order entered by an administrative law judge.

(2) The petition for review shall be in writing and filed with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504, within fourteen days from the date of service of the initial order. Copies of the petition shall be served upon the other party or the other party's representative at the time the petition is filed.

(3) The petition for review shall:

(a) Specify the portions of the order to which exception is taken; and

(b) Refer to the evidence of record relied upon to support the petition.

(4) If a petition for review is not filed within fourteen days from service of the initial order, the initial order shall become the final order.

(5) A review judge shall extend the fourteen-day period to file a petition for review upon motion of a party when:

(a) The motion is made during the fourteen-day period; and

(b) Good cause for the extension is shown.

(6) The review judge shall waive the fourteen-day period for filing a petition for review when:

(a) A petition for review is filed within thirty days of the date the initial order becomes final; and

(b) The petitioner demonstrates good cause for failure to file a timely petition. Good cause includes:

(i) A mistake, inadvertence, or excusable neglect on the part of the petitioner; or

(ii) An unavoidable casualty or misfortune preventing the petitioner from timely filing a petition for review.

(7) When a petition for review is filed, the office of appeals shall send a copy of the petition to the nonpetitioning party or, if represented, to the representative with a notice of the right to file a response.

(8) The nonpetitioning party shall file any response with the office of appeals within seven days of the date that office served a copy of the petition on the nonpetitioning party or representative.

(9) The nonpetitioning party shall serve a copy of the response upon the petitioner or, if the petitioner is represented, on the petitioner's representatives at the time the response is filed. The nonpetitioning party shall also serve a copy on any other party or, if represented, on the other party's representative at the time the response is filed.

(10) A review judge may extend the period to file a response upon motion of a party showing good cause.

(11) The chief review judge shall disclose the assignment of a review judge to any party or representative making inquiry. An individual petitioning to disqualify a review judge under RCW 34.05.425 shall file such petition with the review judge assigned to the proceeding.

NEW SECTION

WAC 248-08-470 RECONSIDERATION. A petition for reconsideration of a review order under RCW 34.05.470 shall be filed at the Office of Appeals, P.O. Box 2465, Olympia, WA 98504.

NEW SECTION

WAC 248-08-515 NOTICE TO LIMITED-ENGLISH-SPEAKING PARTIES. When a limited-English-speaking person is a party in an adjudicative proceeding, all notices concerning the hearing, including notices of hearing, continuance, and dismissal shall:

(1) Be written in the primary language of the party, or

(2) Include a notice in the primary language of the party describing:

- (a) The significance of the notice, and
- (b) How the party may receive assistance in understanding the notice and, if necessary, responding to the notice.

NEW SECTION

WAC 248-08-525 INTERPRETERS. (1) A "hearing impaired person" means a person who, because of a hearing impairment or speech defects, cannot readily understand or communicate in spoken language. A "hearing impaired person" includes a person who is deaf, deaf and blind, or hard of hearing.

(2) An "impaired person" means a person involved in an adjudicative proceeding and is a:

- (a) Hearing impaired person; or
 - (b) Limited-English-speaking person.
- (3) An "intermediary interpreter" means a hearing impaired interpreter:

(a) The registry of interpreters for the deaf certifies with a reverse skills certificate;

(b) Meeting the requirements under subsection (9) of this section; and

(c) Able to assist by:

(i) Providing an accurate interpretation between spoken and sign language or between variants of sign language; and

(ii) Acting as an intermediary between a hearing impaired person and a qualified interpreter for the hearing impaired.

(4) A "limited-English-speaking person" means a person who because of a non-English-speaking cultural background cannot readily speak or understand the English language.

(5) A "qualified interpreter" means a person:

(a) Readily able to interpret spoken English and translate written English to and for an impaired person; and

(b) Readily able to interpret or translate statements of an impaired person into spoken English; and

(c) Meeting the requirements of subsection (9) of this section provided, for hearing impaired persons, a qualified interpreter shall be certified by the registry of interpreters for the deaf with a:

- (i) Specialist certificate-legal;
- (ii) Master's comprehensive skills certificate; or
- (iii) Comprehensive skills certificate.

(6) When an impaired person is a party to any adjudicative proceeding or witness therein, the administrative law judge (ALJ) shall, in the absence of a written waiver signed by the impaired person, appoint a qualified interpreter to assist the impaired person throughout the proceedings. The right to a qualified interpreter may not be waived except when:

(a) The impaired person requests a waiver through the use of a qualified interpreter;

(b) The impaired person's representative, if any, consents; and

(c) The ALJ determines the waiver is knowingly, voluntarily, and intelligently complete.

(7) Waiver of a qualified interpreter shall not preclude the impaired person from claiming the right to a qualified interpreter at a later time during the proceeding.

(8) In a proceeding, both the participant's relatives and the involved agency employees shall not be appointed as interpreters. Subsection (8) of this section shall not prohibit the office of administrative hearings from hiring an employee whose sole function is to interpret in an adjudicative proceeding.

(9) The ALJ shall make a preliminary determination that an interpreter is able in the particular proceeding to accurately interpret communication to and from the impaired person. The ALJ's determination shall be based on the:

- (a) Testimony or stated needs of the impaired person;
- (b) Interpreter's education, certifications, and experience in interpreting for contested cases and/or adjudicative proceedings;
- (c) Interpreter's understanding of the basic vocabulary and procedure involved in the proceeding; and
- (d) Interpreter's impartiality.

The parties or the parties' representative may question the interpreter as to the interpreter's qualifications and impartiality.

(10) The ALJ shall appoint another qualified interpreter if during the proceeding, in the opinion of the impaired person, the ALJ, or a qualified observer, the interpreter does not provide accurate and effective communication with the impaired person.

(11) If the communication mode or language of a hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the ALJ who shall appoint and pay an intermediary interpreter to assist the qualified interpreter.

(12) An interpreter shall, before beginning to interpret, take an oath that:

(a) A true interpretation will be made to the examined person of all the proceedings in a language or in a manner the person understands; and

(b) The interpreter will repeat the statements of the person being examined to the ALJ, in the English language, to the best of the interpreter's skill and judgment.

(13) Mode of interpretation. Interpreters for:

(a) Limited-English-speaking persons shall use a simultaneous mode of interpretation where the ALJ and interpreter agree simultaneous interpretation advances fairness and efficiency; otherwise, the interpreter shall use the consecutive mode of foreign language interpretation; and

(b) Hearing impaired persons shall use the simultaneous mode of interpretation unless an intermediary interpreter is needed. If an intermediary interpreter is needed, interpreters shall use the mode the qualified interpreter considers to provide the most accurate and effective communication with the hearing impaired person.

(c) When an impaired person is a party to a proceeding, the:

(i) Interpreter shall translate all statements made by other hearing participants;

(ii) ALJ shall ensure sufficient, extra time is provided to permit translation; and

(iii) ALJ shall ensure the interpreter translates the entire proceeding to the party to the extent the party has the same opportunity to understand the statements made during the proceedings as a nonimpaired party has when listening to uninterpreted statements.

(14) An examiner shall not examine a qualified interpreter, without the written consent of the parties to the communication, as to the:

(a) Communication the interpreter interprets under circumstances where the communication is privileged by law; and

(b) Information the interpreter obtains while interpreting a pending proceeding.

(15) The ALJ shall explain to the impaired party:

(a) A written decision or order is issued in English; and

(b) The party may contact the interpreter for a translation of the decision at no cost to the party; and

(c) If the party has a right to review the order, the party is orally informed during the hearing of the right and of the time limits to request a review.

(16) At the hearing, the interpreter for a limited-English-speaking party shall provide to the ALJ the interpreter's telephone number written in the primary language of the impaired party. The interpreter's telephone number shall be attached to the order mailed to the impaired party. A copy of the order shall also be mailed to the interpreter for use in translation.

(17) In any proceeding involving a hearing impaired person, the ALJ may, with the consent of the agency involved in the hearing, order the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use as the official transcript of the proceeding. Where simultaneous translation is used for interpreting statements of limited-English-speaking persons, the foreign language statements shall be recorded simultaneously with the English language statements by means of a separate tape recorder.

(18) A qualified interpreter appointed under this section shall be entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The agency involved in the hearing shall pay the interpreter fee and expenses. The interpreter services fee for a hearing impaired person shall be under the standards established by the department of social and health services, office of deaf services.

NEW SECTION

WAC 248-08-535 GROUP HEARING. (1) When two or more appellants file an application to appeal a similar issue, the applications may be consolidated by the department and heard as a group.

(2) An appellant scheduled for a group hearing may withdraw from a group hearing in favor of an individual hearing. An appellant's motion to withdraw from a group hearing shall be granted if the motion is filed before the:

(a) Administrative law judge (ALJ) has made a discretionary ruling; and

(b) Date of the hearing.

(3) The ALJ may grant a motion to withdraw filed later for good cause.

(4) Each appellant shall retain the right to representation of the appellant's choice.

NEW SECTION

WAC 248-08-545 CONTINUANCE. (1) The administrative law judge (ALJ) may:

(a) Order postponements, continuances, extensions of time, and adjournments on the ALJ's own motion; or

(b) Grant postponements, continuances, extensions of time, and adjournments upon the motion of any party, with notice to all other parties, showing good and sufficient cause.

(2) A motion for a continuance made before the hearing date may be either oral or in writing and shall state the:

(a) Party seeking the continuance notified the other parties of the motion; and

(b) Other notified parties either:

(i) Agreed to the continuance; or

(ii) Did not agree to the continuance. If the other parties did not agree to the continuance, the ALJ shall promptly schedule a prehearing conference to receive argument and to rule on the motion.

NEW SECTION

WAC 248-08-565 COMPUTATION OF TIME.

(1) When computing a period of time prescribed or allowed by an applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run shall not be included.

(2) The last day of the computed period shall be included unless the last day is a Saturday, Sunday, or a legal holiday.

(3) When the last day is a Saturday, Sunday, or a legal holiday, the period shall run until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

(4) When the period of time prescribed or allowed is seven days or less, the intermediate Saturday and Sunday, and any legal holiday, shall be excluded in the computation.

REPEALER

The following sections of the Washington Administrative Code are repealed:

248-08-001 DEFINITIONS.

248-08-010 APPEARANCE AND PRACTICE BEFORE AGENCY—WHO MAY APPEAR.

248-08-020 APPEARANCE AND PRACTICE BEFORE AGENCY—APPEARANCE IN CERTAIN PROCEEDINGS MAY BE LIMITED TO ATTORNEYS.

248-08-030 APPEARANCE AND PRACTICE BEFORE AGENCY—SOLICITATION OF BUSINESS UNETHICAL.

248-08-040 APPEARANCE AND PRACTICE BEFORE AGENCY—STANDARDS OF ETHICAL CONDUCT.

248-08-050 APPEARANCE AND PRACTICE BEFORE AGENCY—APPEARANCE BY FORMER EMPLOYEE OF BOARD OR FORMER MEMBER OF ATTORNEY GENERAL'S STAFF.

248-08-060 APPEARANCE AND PRACTICE BEFORE AGENCY—FORMER EMPLOYEE AS EXPERT WITNESS.

248-08-070 COMPUTATION OF TIME.

248-08-075 NOTICE OF APPEAL.

248-08-080 NOTICE AND OPPORTUNITY FOR HEARING IN CONTESTED CASES.

248-08-090 SERVICE OF PROCESS—BY WHOM SERVED.

248-08-100 SERVICE OF PROCESS—UPON WHOM SERVED.

248-08-110 SERVICE OF PROCESS—SERVICE UPON PARTIES.

248-08-120 SERVICE OF PROCESS—METHOD OF SERVICE.

248-08-130 SERVICE OF PROCESS—WHEN SERVICE COMPLETE.

248-08-140 SERVICE OF PROCESS—FILING WITH AGENCY.

248-08-150 SUBPOENAS WHERE PROVIDED BY LAW—FORM.

248-08-160 SUBPOENAS WHERE PROVIDED BY LAW—ISSUANCE TO PARTIES.

248-08-170 SUBPOENAS WHERE PROVIDED BY LAW—SERVICE.

248-08-180 SUBPOENAS WHERE PROVIDED BY LAW—FEES.

248-08-190 SUBPOENAS WHERE PROVIDED BY LAW—PROOF OF SERVICE.

248-08-200 SUBPOENAS WHERE PROVIDED BY LAW—QUASHING.

248-08-210 SUBPOENAS WHERE PROVIDED BY LAW—ENFORCEMENT.

248-08-220 SUBPOENAS WHERE PROVIDED BY LAW—GEOGRAPHICAL SCOPE.

248-08-230 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RIGHT TO TAKE.

248-08-240 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SCOPE.

248-08-250 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—OFFICER BEFORE WHOM TAKEN.

248-08-260 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—AUTHORIZATION.

248-08-270 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—PROTECTION OF PARTIES AND DEponents.

248-08-280 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—ORAL EXAMINATION AND CROSS-EXAMINATION.

248-08-290 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RECORDATION.

248-08-300 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SIGNING ATTESTATION AND RETURN.

248-08-310 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—USE AND EFFECT.

248-08-320 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—FEES OF OFFICERS AND DEponents.

248-08-330 DEPOSITIONS UPON INTERROGATORIES—SUBMISSION OF INTERROGATORIES.

248-08-340 DEPOSITIONS UPON INTERROGATORIES—INTERROGATION.

248-08-350 DEPOSITIONS UPON INTERROGATORIES—ATTESTATION AND RETURN.

248-08-360 DEPOSITIONS UPON INTERROGATORIES—PROVISIONS OF DEPOSITION RULE.

248-08-370 OFFICIAL NOTICE—MATTERS OF LAW.

248-08-380 OFFICIAL NOTICE—MATERIAL FACTS.

248-08-390 PRESUMPTIONS.

248-08-400 STIPULATIONS AND ADMISSIONS OF RECORD.

248-08-420 DEFINITION OF ISSUES BEFORE HEARING.

248-08-430 PREHEARING CONFERENCE RULE—AUTHORIZED.

248-08-450 SUBMISSION OF DOCUMENTARY EVIDENCE IN ADVANCE.

248-08-460 EXCERPTS FROM DOCUMENTARY EVIDENCE.

248-08-470 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—NUMBER AND QUALIFICATIONS OF WITNESSES.

248-08-480 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—WRITTEN SWORN STATEMENTS.

248-08-490 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—SUPPORTING DATA.

248-08-500 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—EFFECT OF NON-COMPLIANCE WITH WAC 248-08-470 OR 248-08-480.

248-08-510 CONTINUANCES.

248-08-520 RULES OF EVIDENCE—ADMISSIBILITY CRITERIA.

248-08-530 RULES OF EVIDENCE—TENTATIVE ADMISSION—EXCLUSION—DISCONTINUANCE—OBJECTIONS.

248-08-540 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—WHO MAY PETITION.

248-08-550 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—REQUISITES.

248-08-560 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—AGENCY MUST CONSIDER.

248-08-570 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—NOTICE OF DISPOSITION.

248-08-580 DECLARATORY RULINGS.

248-08-590 FORMS.

248-08-596 VARIANCES, WAIVERS, AND EXEMPTIONS.

RULES OF PRACTICE AND PROCEDURE RELATING TO THE LICENSING OF NURSING HOMES, SPECIALIZED NURSING HOMES AND BOARDING HOMES FOR THE AGED

248-08-700 MEANING OF WORDS TO CONFORM WITH STATUTORY MEANING.

248-08-705 REASONS AND CITATIONS TO ACCOMPANY ORDERS.

248-08-710 NOTICE OF HEARINGS.

248-08-715 HEARING EXAMINERS.

248-08-720 PARTIES TO HEARING.

248-08-725 BURDEN OF PROOF.

248-08-730 RECORD OF TESTIMONY AND PROCEEDINGS.

248-08-735 DECISIONS.

248-08-740 NOTICE OF DECISION.

RULES OF PRACTICE AND PROCEDURE RELATING TO THE LICENSING OF HOSPITALS

248-08-750 MEANING OF WORDS.

248-08-755 REASONS AND CITATIONS TO ACCOMPANY ORDERS.

248-08-760 NOTICE OF HEARINGS.

248-08-765 HEARING EXAMINERS.

248-08-770 PARTIES.

248-08-775 BURDEN OF PROOF.

248-08-780 RECORD OF TESTIMONY AND PROCEEDINGS.

248-08-785 DECISIONS OF BOARD.

248-08-790 NOTICE OF DECISIONS.

RULES OF PRACTICE AND PROCEDURE RELATING TO THE LICENSING OF PRIVATE PSYCHIATRIC HOSPITALS AND MATERNITY HOMES FOR UNMARRIED MOTHERS

248-08-800 REASONS AND CITATIONS TO ACCOMPANY ORDERS.

248-08-805 NOTICE OF DENIALS, SUSPENSIONS AND REVOCATIONS—OPPORTUNITY FOR HEARING.

248-08-810 HEARING EXAMINERS.

248-08-815 DECISIONS AND WHEN FINAL.

248-08-820 POWERS OF HEARING EXAMINERS.

248-08-825 PARTIES.

248-08-830 BURDEN OF PROOF.

248-08-835 RECORD OF TESTIMONY AND PROCEEDINGS.

248-08-840 DECISIONS.

248-08-845 NOTICE OF DECISIONS.

Chapter 248-320 WAC ADMINISTRATIVE PROCEDURES

NEW SECTION

WAC 248-320-340 DELEGATION OF AUTHORITY BY SECRETARY. Under section 106, chapter 9, Laws of 1989 1st ex. sess., certain powers and duties have been delegated by the secretary. Writings evidencing delegations of authority are on file in the secretary's office and may be inspected between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

NEW SECTION

WAC 248-320-350 DECLARATORY ORDERS—FORMS, CONTENT, AND FILING. A petition for a declaratory order shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of health." On the left side of page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory order." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the

name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

(3) The original and two legible copies shall be filed with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504. Petitions shall be on white paper, 8 1/2" x 11" in size.

NEW SECTION

WAC 248-320-360 DECLARATORY ORDERS—PROCEDURAL RIGHTS OF PERSONS IN RELATION TO PETITION. If a petition for a declaratory order is set for specified proceedings under RCW 34.05.240(5)(b), the department shall give not less than seven days advance written notice of the proceedings to the petitioner and all persons described under RCW 34.05.240(3). The notice shall contain the time, date, place, and nature of the proceedings and shall describe how interested persons may participate in the proceeding.

NEW SECTION

WAC 248-320-370 DECLARATORY ORDERS—DISPOSITION OF PETITION. A declaratory order entered by the department or a decision declining to enter a declaratory order shall be in writing and shall be served upon the petitioner and all other persons described under RCW 34.05.240(3).

NEW SECTION

WAC 248-320-400 PETITION FOR RULE MAKING—FORM, CONTENT, AND FILING. A petition for adoption, amendment, or repeal of a rule shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of health." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for rule making." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the adoption of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule.

Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(3) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504. Petitions shall be on white paper 8 1/2" x 11" in size.

NEW SECTION

WAC 248-320-410 PETITION FOR RULE MAKING—CONSIDERATION AND DISPOSITION. (1) Each petition for the adoption, amendment, or repeal of a rule shall be considered by the department and the department may, in its discretion, solicit comments or invite discussion concerning the matter before disposition of the petition.

(2) If the department denies the petition, the denial shall be served upon the petitioner.

NEW SECTION

WAC 248-320-500 UPDATING MAILING LISTS. (1) Periodically, the department may cause the following notice, or a notice substantially similar, to be mailed: "In order to maintain as current a mailing list as possible, and to eliminate mailing notices to those who no longer have need for such notices, the department will discontinue use of its old mailing lists, effective (date to be specified). If you wish to continue receiving copies of notices of intention to adopt, amend or repeal rules after that date, please fill out the attached form and return it to the department at the address indicated on the form. If you do not return the form indicating your desire to continue to receive notices to adopt, amend or repeal rules, your name or the names of your organization will be removed from the mailing lists."

(2) The notice regarding updating of mailing lists is to be mailed by first-class mail.

(3) The form to be filled out by those persons or organizations wishing to continue to receive department notices to adopt, amend or repeal rules shall specify interest areas covered by these notices, thereby enabling those on mailing lists to limit correspondence received.

WSR 89-14-097

**EMERGENCY RULES
BOARD OF HEALTH**

[Order 2826—Filed July 3, 1989, 8:23 a.m.]

Date of Adoption: July 3, 1989.

Purpose: The new Administrative Procedure Act (APA), chapter 34.05 RCW, becomes effective July 1, 1989. These rules govern the formal procedures prescribed or authorized by the act, including adjudicative proceedings, declaratory orders, petitions for rule making, and other topics.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: RCW 43.20.050.

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

Reasons for this Finding: Section 250 of the new APA [RCW 34.05.250] requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. Section 220 (1)(a) [RCW 34.05.220] permits an agency to adopt its

own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. The model rules were filed on June 15 and become effective on July 15. The result is that if this agency does not adopt its own rules it may have no rules for some critical activities during the first two weeks of July. Further, this agency's rules contain variations from the model rules described in and for the reasons shown below.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Yes, see below.

1. Indicate in the space below the rule section affected and the statutory authority.

Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory Authority (RCW or Session Law Chapter)	Reason for variation from Model Rules
248-21-005		Amend		43.20.050	Required by section 95, chapter 175, Laws of 1989.
248-33-040		Amend		Same	Subsection (5) required by section 95, chapter 175, Laws of 1989.
248-33-060			Repeal	Same	Housekeeping; provisions moved to WAC 248-33-040(3).
248-33-080			Repeal	Same	Housekeeping; provisions moved to WAC 248-33-040(4).
248-58-085	New			69.30.030	Required by sections 95 and 125, chapter 175, Laws of 1989.
248-97-130		Amend		70.90.120	Adjudicative proceeding procedures are moved from this rule to WAC 248-97-135 and changed to comply with new statutory law.
248-97-135	New			Same	Required by sections 95, 96, and 130, chapter 175, Laws of 1989.
248-140-200		Amend		42.20.050	Required by section 95, chapter 175, Laws of 1989.
248-144-031		Amend		Same	Required by section 95, chapter 175, Laws of 1989.

Effective Date of Rule: Immediately.

June 30, 1989
Paul Trause
Deputy Secretary

AMENDATORY SECTION (Amending Order 218, filed 11/6/81)

WAC 248-21-005 LICENSURE. (1) After January 1, 1982, no person acting separately or jointly with any other person shall establish, maintain, conduct or operate a hospice care center in this state or use the words "hospice care center" to describe or identify a place or building which does not have a license as a hospice care center as defined and described herein.

(2) An application for a hospice care center license shall be submitted to the department on forms provided by the department. The application shall be signed by the operator of the facility and the legal representative of the governing body.

(3) Other requirements related to licensure, fees, and inspection are as stipulated in RCW 70.41.100, 70.41-110, 70.41.120, 70.41.130, 70.41.140, 70.41.150, 70.41-160 and 70.41.170.

(4) There shall be compliance with other regulations to include:

(a) Applicable rules and regulations for hospice care centers adopted by the Washington state fire marshal pursuant to RCW 70.41.080 and chapter 48.48 RCW;

(b) Applicable national, state, and local electrical, fire, zoning, building, and plumbing codes.

(5) The department's notice of a denial, suspension, modification, or revocation of a license is governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The applicant's and license holder's right to an adjudicative proceeding is in the same law.

AMENDATORY SECTION (Amending Order 134, filed 10/21/76)

WAC 248-33-040 APPROVAL PROCESS. (1) A facility which seeks to qualify as an approved eye bank must submit a written request for approval to the secretary. The request must include a statement of the arrangements made for the storage of tissue received, the name and availability of ophthalmologists and the policies to be followed for the distribution of tissue.

(2) Approval may be granted by the secretary when:

(a) The eye bank meets accepted medical standards for the preservation of eye tissue in a condition suitable for transplantation including, but not limited to, the provision of a storage area for the tissue which is maintained at an appropriate temperature and in which the tissue may be protected from contamination and/or damage, and

(b) There are one or more board certified or board qualified ophthalmologists on the staff of a hospital which

seeks approval for its eye bank who are able to, and express a willingness to, perform corneal transplants, and

(c) The director or administrator of the eye bank declares it to be the intention of those who direct and/or administer the eye bank to distribute available corneal tissue to recipients in a fair and reasonable manner, which means the distribution of corneal tissue to recipients requiring such tissue:

(i) Without discrimination based on race, creed, ethnic origin, sex, or age, and

(ii) With consideration of the length of time that the potential recipient has had a medically defined need to receive corneal tissue, and

(iii) With consideration of the impact of waiting to receive such tissue on the recipient and the resulting economic, educational, or developmental loss to the potential recipient, and

(iv) With provision made for emergency requests for corneal tissue.

(3) The department shall deny, suspend, modify, or revoke approval of an eye bank when a facility fails or refuses to comply with legal requirements, including the criteria set forth in chapter 248-33 WAC.

(4) The secretary may, in the secretary's discretion, reinstate the approval of an eye bank when the facility has corrected the conditions which led to the suspension, modification, or revocation approval.

(5) The department's notice of a denial, suspension, modification, or revocation of approval is governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The applicant's and approval holder's right to an adjudicative proceeding is in the same law.

REPEALER

The following sections of the Washington Administration Code are repealed:

WAC 248-33-060 TERMINATION OF APPROVAL.

WAC 248-33-080 REINSTATEMENT OF APPROVAL.

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

NEW SECTION

WAC 248-58-085 NOTICE AND ADJUDICATIVE PROCEEDING. (1) The department's notice of a denial, suspension, modification, or revocation of a license is governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The applicant's and license holder's right to an adjudicative proceeding is in the same law.

(2) The department's notice of imposition of a civil fine is governed by RCW 43.20A.XXX and section 96, chapter 175, Laws of 1989. The right of the person the department imposes a civil fine on to an adjudicative proceeding is in the same law.

(3) The procedure for adjudicative proceedings is contained in this chapter and chapter 248-08 WAC.

AMENDATORY SECTION (Amending Order 311, filed 6/22/88)

WAC 248-97-130 ENFORCEMENT. (1) The department or, if enforcement responsibility has been assigned under a joint plan of operation, the local health officer:

(a) Shall enforce the rules of chapter 248-97 WAC; or

(b) May refer cases within their jurisdiction to the local prosecutor's office or office of the attorney general, as appropriate.

(2) When a RWCF is in violation of provisions of chapter 70.90 RCW or the rules of chapter 248-97 WAC, appropriate enforcement action may be initiated by the department, local health officer, local prosecutor's office, or office of the attorney general. Enforcement actions may include any one or a combination of the following:

(a) Informal administrative conferences, convened at the request of the department, local health officer, or owner, to explore facts and resolve problems;

(b) Orders directed to the owner and/or operator of the RWCF and/or the person causing or responsible for the violation of the rules of chapter 248-97 WAC;

(c) Imposition of civil penalties of up to five hundred dollars per violation per day as authorized under RCW 70.90.200;

(d) Denial, suspension, or revocation of operating permits; and

(e) Civil or criminal action initiated by the local prosecutor's office or by the office of the attorney general.

(3) Orders authorized under this section include, but are not limited to, the following:

(a) Orders requiring corrective measures necessary to effect compliance with chapter 248-97 WAC or chapter 70.90 RCW. Such orders may or may not include a compliance schedule; and

(b) Orders to stop work and/or refrain from using any RWCF or portion thereof or improvement thereto until all permits, certifications, and approvals required by statute or rule are obtained.

(4) An order issued under this section shall:

(a) Be in writing;

(b) Name the facility and the person or persons to whom the order is directed;

(c) Briefly describe each action or inaction constituting a violation of chapter 70.90 RCW or the rules of chapter 248-97 WAC;

(d) Specify any required corrective action or forbearance together with a schedule for completing such corrective action, if applicable;

(e) Provide notice, as appropriate, that continued or repeated violation may subject the violator to:

(i) Civil penalties of up to five hundred dollars;

(ii) Denial, suspension, or revocation of the facilities operating permit; or

(iii) Referral to the office of the county prosecutor or attorney general.

(f) Provide the name, business address, and phone number of an appropriate staff person who may be contacted in regard to an order.

(5) Service of an order shall be made:

- (a) Personally, unless otherwise provided by law, or
- (b) By certified mail return receipt requested.

(6) Under such rules or policies as the department or local health officer may adopt, civil penalties of up to five hundred dollars per violation per day may be assessed against any person violating the provisions of chapter 70.90 RCW or chapter 248-97 WAC.

(7) The department or local health officer shall have cause to deny the application or reapplication for an operating permit or to revoke or suspend a required operating permit of any person who has:

(a) Previously had:

- (i) An operating permit suspended or revoked; or
- (ii) An application for an operating permit denied for any reason whether in this state or any other state.

(b) Failed or refused to comply with the provisions of chapter 70.90 RCW, chapter 248-97 WAC, or any other statutory provision or rule regulating the construction or operation of a RWCF; or

(c) Obtained or attempted to obtain an operating permit or any other required certificate or approval by fraudulent means or misrepresentation.

(8) For the purposes of subsection (7) of this section, a person shall be defined to include:

- (a) Applicant;
- (b) Reapplicant;
- (c) Permit holder; or
- (d) Any individual associated with subsection (8)(a),

(b), or (c) of this section including, but not limited to:

- (i) Board members,
- (ii) Officers,
- (iii) Managers,
- (iv) Partners,
- (v) Association members,
- (vi) Employees,
- (vii) Agents, and in addition
- (viii) Third persons acting with the knowledge of such persons.

(9) ~~((Any person aggrieved by the department's or local health officer's denial, suspension, or revocation of an operating permit may request an administrative hearing.~~

~~(a) A hearing requested to contest a department action (departmental hearing) shall be governed by chapters 10-08 and 388-08 WAC. If any provision of this section conflicts with chapter 388-08 WAC, the provision in this section applies. The decision-making procedure shall be the initial decision, petition for review, and review decision procedure.~~

~~(b) A request for a department hearing must be in writing and:~~

- ~~(i) State the issue and law on which the appeal relies;~~
- ~~(ii) State the grounds for contending the denial, suspension, or revocation is erroneous;~~
- ~~(iii) Contain the appellant's current address and telephone number, if any; and~~
- ~~(iv) Have a copy of the order or notice of denial, suspension, or revocation attached.~~

~~(c) A request for a department hearing must be made within thirty days of the date the order or notice of denial, suspension, or revocation was received by the person.~~

~~(d) The request for a department hearing shall be made by personal service to the Office of Hearings, Olympia, or certified mail addressed to the Office of Hearings at P.O. Box 2465, Olympia, Washington 98504-2465. When the request is mailed, it shall be treated as having been made on the date it was post-marked provided it is received by the Office of Hearings properly addressed and with no postage due.~~

~~(e) A hearing requested to contest a local health officer's action shall be governed by the local health jurisdiction's rules for hearings.~~

~~((10)) The department or local health officer may summarily suspend an operating permit, other required permit, license, or certification without a prior hearing if the department or local health officer:~~

~~(a) Finds that public health, safety, or welfare imperatively requires emergency action; and~~

~~(b) Incorporates a finding to that effect in its notice or order.~~

~~((11) The department or local health jurisdiction shall give priority to the scheduling and determination of any appeal from any notice or order issued under subsection (10) of this section.))~~

NEW SECTION

WAC 248-97-135 HEARINGS—NOTICE. (1) A hearing requested to contest a local health officer's action shall be governed by the local health jurisdiction's rules for hearings.

(2)(a) The department's notice of a denial, suspension, modification, or revocation of a license is governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The applicant's and license holder's right to an adjudicative proceeding is in the same law.

(b) The department's notice of imposition of a civil fine is governed by RCW 43.20A.XXX and section 96, chapter 175, Laws of 1989. The right of a person the department imposes a civil fine on to an adjudicative proceeding is in the same law.

(c) The procedure for the adjudicative proceeding is in this chapter and in chapter 248-08 WAC.

AMENDATORY SECTION (Amending Order 87, filed 6/12/73)

WAC 248-140-200 ~~((PROCEDURE UPON DENIAL))~~ NOTICE OF ((APPLICATION FOR CERTIFICATE)) DECISION—ADJUDICATIVE PROCEEDING. ~~((Applicants denied approval or persons whose certificates have been revoked shall have recourse to review of the decision of the secretary in conformance with the Administrative Procedure Act))~~ The department's notice of a denial, suspension, modification, or revocation of a certificate is governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The applicant's and certificate holder's right to an adjudicative proceeding is in the same law.

AMENDATORY SECTION (Amending Order 328, filed 5/17/89)

WAC 248-144-031 LICENSING, ADMINISTRATION, ENFORCEMENT, EXEMPTION. (1) Licensees or prospective licensees shall:

(a) Complete and submit an application along with the appropriate fee at least thirty days before:

- (i) Opening a new transient accommodation;
- (ii) Adding new units to an existing transient accommodation; or
- (iii) Changing the license of a transient accommodation.

(b) Request the department to complete a feasibility survey before applying for a license whenever an existing structure or property was not previously used or licensed as a transient accommodation;

(c) Secure a valid license issued by the department before initially opening and by January 1 each year thereafter;

(d) Submit a license renewal with the annual fee by December 10 of each year;

(e) Conspicuously display the license in the lobby or office;

(f) Comply with a plan of corrective action if issued by the department; and

(g) Allow the department to inspect the transient accommodation at any reasonable time.

(2)(a) Licensees may:

(a) request, in writing, an exemption from the department if:

(i) The health and safety of the occupant is not jeopardized;

(ii) Strict enforcement of this chapter will create undue hardship for the licensee.

(b) ~~((Appeal decisions of the department related to)) Exemption((s to the board under chapter 34.04 RCW, Administrative Procedure Act)) decisions shall be treated as licensing decisions under subsection (5) of this section rule.~~

(3) Under chapter 70.62 RCW, the department shall have the authority to:

(a) Inspect transient accommodations including unoccupied lodging units:

- (i) Annually;
- (ii) As needed; and
- (iii) Upon request.

(b) Issue licenses annually upon receipt of the appropriate fee;

(c) Issue a license for the person and premises named in the application when the applicant or licensee is in compliance with:

- (i) Chapter 70.62 RCW and this chapter;
- (ii) The rules and regulations of the state director of fire protection; and
- (iii) All applicable local codes and ordinances.

(d) Respond within thirty days to application requests;

(e) Respond to complaints;

(f) Charge fees, authorized under chapters 43.20B and 70.62 RCW, to recover all or a portion of the costs of administering this chapter.

(4) The department shall have the authority to:

(a) Deny, revoke, or suspend the license of a transient accommodation which fails to comply with chapter 70.62 RCW and this chapter;

(b) Take one or more of the following enforcement actions:

(i) Notify the licensee of violations;

(ii) Establish a corrective action plan and compliance schedule;

(iii) Issue a department order;

(iv) Revoke or suspend the license; and/or

(v) Initiate legal action.

(c) Issue a provisional license when a transient accommodation does not meet the standards in this chapter under the following conditions:

(i) The department has approved a written correction action plan, including a compliance schedule; or

(ii) An application for change of licensure of an existing, currently licensed transient accommodation is pending; or

(iii) The licensee is awaiting the board's decision regarding an exemption request; or

(iv) The licensee is awaiting the ~~((department's decision regarding))~~ final order in an ~~((administrative decision))~~ adjudicative proceeding under chapter ~~((34.04))~~ 34.05 RCW.

(d) Grant an exemption under subsection (2)(a)(i) and (ii) of this section.

(5) The department's notice of a denial, suspension, modification, or revocation of a license or a request for an exemption under subsection (2) of this section shall be governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The applicant's and license holder's right to an adjudicative proceeding is in the same law.

WSR 89-14-098
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 [Order 2829—Filed July 3, 1989, 8:27 a.m.]

Date of Adoption: July 3, 1989.

Purpose: The new Administrative Procedure Act (APA), chapter 34.05 RCW, becomes effective July 1, 1989. These rules govern the formal procedures prescribed or authorized by the act, including adjudicative proceedings, declaratory orders, petitions for rule making, and other topics.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; 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: Section 250 of the new APA [RCW 34.05.250] requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. Section 220 (1)(a) [RCW 34.05.220] permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. The model rules were filed on June 15 and become effective on July 15. The

result is that if this agency does not adopt its own rules it may have no rules for some critical activities during the first two weeks of July. Further, this agency's rules contain variations from the model rules described in and for the reasons shown below.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Yes, see below.

1. Indicate in the spaces below the rule section affected and the statutory authority

<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory Authority (RCW or Session Law Chapter)</u>	<u>Reason for variation from Model Rules</u>
248-14-070		Amend		18.51.070	Required by section 95, chapter 175, Laws of 1989.
248-554-030		Amend		70.123.030	Required by section 95, chapter 175, Laws of 1989.
275-16-055		Amend		43.20B.335	The contents of the application are specified and, to achieve greater uniformity among programs, are modeled after section 95, chapter 175, Laws of 1989.
275-19-050		Amend		70.96A.090 as amended by sec. 19 cb 270, Laws of 1989.	1. Notice and application procedures are required by section 95, chapter 175, Laws of 1989. 2. Other differences are to continue to have these proceedings be based on the facts existing at the time the department acted against the applicant/license holder as opposed to a <u>de novo</u> proceeding.
275-20-080		Amend		74.08.090	The contents of the application are specified and, to achieve greater uniformity among programs, are modeled after section 95, chapter 175, Laws of 1989.
275-26-015			Repeal	71A.12.030	Not applicable.
275-26-020		Amend		Same	1. Subsections (1) and (2): None. 2. Subsection (3): Required by section 95, chapter 175, Laws of 1989.
275-26-022		Amend		Same	1. Subsections (1) through (4): Encouraged by RCW 34.05.060. 2. Subsection (3): Required by section 95, chapter 175, Laws of 1989.
275-27-500		Amend		Same	Required by RCW 71A.10.050 as amended by section 138, chapter 175, Laws of 1989.
275-36-310		Amend		Same	1. Subsections (1) through (4): Encouraged by RCW 34.05.060. 2. Required by section 95, chapter 175, Laws of 1989.
275-38-960		Amend		Same	The procedures are modeled after WAC 388-96-904 (see below) as both

				rules involve reimbursement for medical and other services rendered to department clients by similar kinds of facilities.
275-56-095	Amend	71.24.035		Required by section 95, chapter 175, Laws of 1989.
388-09-010	Repeal	74.08.090		1. Some changes required by section 95, chapter 175, Laws of 1989 and RCW 74.15.130 as amended by section 149, chapter 175, Laws of 1989. 2. Other changes are to achieve greater uniformity of hearing procedures by applying chapter 388-08 to this program's adjudicative proceedings.
388-09-020		Repeal	Same	Same
388-09-030		Repeal	Same	Same
388-09-040		Repeal	Same	Same
				1. The scope of the rule is broadened to include objection to a notice and finding of parental responsibility. See chapter 55, Laws of 1989. 2. Housekeeping. See RCW 34.05.461(1)(c) and RCW 74.20A.055 as amended by section 152, chapter 175, Laws of 1989.
388-11-100	Amend	Same		
388-11-105		Repeal	Same	The section is being repealed because it conflicts with RCW 34.05.464(5). See also RCW 74.20A.055 as amended by section 152, chapter 175, Laws of 1989.
388-11-180	Amend	Same		Housekeeping
388-11-185		Repeal		This section would limit discovery to the devices stated in it by operation of RCW 34.05.446(2),(3). The Model Rules do not (see Section 120). Thus, repeal of this rule makes this program's discovery rules the same as those in chapter 388-08 WAC rules are the same as the Model Rules (compare WAC 10-08-120 with 388-08-446.
388-13-050	Amend	Same		Housekeeping. See RCW 74.20A.270 as amended by sections 156 and 157, chapter 175, Laws of 1989.
388-13-060	Amend	Same		Same
388-13-070	Amend	Same		Same
388-13-080		Repeal	Same	Same as WAC 388-11-105 (see above).
Page 2 - DSHS				
388-13-110	Amend	Same		Pursuant to RCW 34.05.440(3) the department has adopted 14 days as the general time to file a motion to vacate a dismissal of the proceedings for reason of default. This general period is in WAC 388-08-440. This rule in chapter 388-11 is being repealed to make the WAC 388-08-440 apply to this program in the interest of achieving greater procedural uniformity among programs.
388-13-120	Amend			Same Housekeeping and to achieve greater procedural uniformity for department programs.
388-14-260	Amend	Same		Same
388-14-270	Amend	Same		Housekeeping
388-14-385	Amend	Same		Same
388-14-390	Amend	Same		Housekeeping and to achieve greater procedural uniformity for department programs.
388-14-415	Amend	Same		1. Required by section 16, chapter 360, Laws of 1989. 2. Housekeeping
388-17-100	Amend	74.38.030		None
388-17-500	Amend	Same		The contents of the application are specified and, to achieve greater procedural uniformity, are modeled after section 95, chapter 175, Laws of 1989.
388-17-510	Amend	Same		Same
388-70-590	Amend	74.13.109		Housekeeping. See also RCW 74.13.127 as amended by section 148, chapter 175, Laws of 1989.
388-73-036	Amend	74.15.030		Required by section 95, chapter 175, Laws of 1989.
388-76-095	Amend	74.08.044		Same
388-80-005	Amend	74.08.090		Housekeeping.
388-96-904	Amend	74.09.120		Required by section 159, chapter 175, Laws of 1989.

388-98-700	Amend	18.51.070
388-98-850	Amend	18.51.310

To achieve greater procedural uniformity among programs this rule is modeled after section 95, chapter 175, Laws of 1989.
 Required by section 96, chapter 175, Laws of 1989.

Effective Date of Rule: Immediately.

June 30, 1989
 Leslie F. James, Director
 Administrative Services

Reviser's note: The material contained in this filing will appear in the 89-16 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

PARALLEL TABLE:

APA - DSHS Procedural Rules - Model Procedural Rules

<u>34.05 Section</u>	<u>388-08 Section</u>	<u>10-08 Section</u>	<u>388-08 same as/ different from 10-08</u>
<u>Adjudicative Proceedings</u>			
410	410	001	different
413	413	035	different
425 (see 449(1))	425(1)	None	different
	(2) (a)-(i)	200(1)-(9)	same
	(2) (j)	190	different
	(2) (k)	200(10)	different
(see 050)	(2) (1)	none (but see 040(3))	different
	(3)	050(3)	same
	(4)	none	different
431	431(1), (2)	130(1)-(4)	same
	(3)	130(5)	different
434	434	040	different
437	437	110	different
440	440	none	different
446	446	120	same
449	449(1)	180	different
	(2)	170	same
452	452 (except 7)	140	same
(3)	(7)	160(1)	same
461	461	210	different
464	464	211	different
470	470	215	same
none	515	045	same
none	525	150; 160(2)	same
none	535	none	different
none	545	090	same
none	555	none	different
none	565	080	same
060; 431(1)	none	230(1)	different
	none	230(2)	different

388-320 Section

Declaratory Order

240	350	250	same
240	360	251	same
240	370	252	same

Rule Making

330	400	260	same
330	410	261	same

WSR 89-14-099
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Order 2830—Filed July 3, 1989, 8:30 a.m.]

Date of Adoption: July 3, 1989.

Purpose: The new Administrative Procedure Act (APA), chapter 34.05 RCW, becomes effective July 1, 1989. These rules govern the formal procedures prescribed or authorized by the act, including adjudicative proceedings, declaratory orders, petitions for rule making, and other topics.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; 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: Section 250 of the new APA [RCW 34.05.250] requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. Section 220 (1)(a) [RCW 34.05.220] permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. The model rules were filed on June 15 and become effective on July 15. The result is that if this agency does not adopt its own rules it may have no rules for some critical activities during the first two weeks of July. Further, this agency's rules contain variations from the model rules described in and for the reasons shown below.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Yes, see below.

		CHAPTERS 10-08 AND 388-08 WAC				
368-08 <u>section</u>	10-08 <u>section</u>	comperison of the two chapters and reasons for variations		425(3)	050(2)	a person who appears <u>pro se</u> at the hearing has knowingly waived the right to representation.
410	001	Purpose - Application of this chapter				
		The DSHS section differs from the model section because the purpose of each chapter is different. Chapter 10-08 WAC is a model for all agencies while chapter 388-08 applies only to DSHS benefit programs. The DSHS section also gives the presiding and reviewing officers' addresses so the public will know where to file documents.		425(4)	none	APA section 425(6) states that the APA petition for disqualification provision is in addition to the RCW 34.12.050 motion of prejudice. The procedure for the APA petition differs from an RCW 34.12.040 motion. The Model Rules do not make the differences clear. The variation in the DSHS rule is to clarify the differences.
413	035	Application		431	130	Prehearing Conference
		The Model Rule requires an application to be written. The DSHS benefit rule explicitly permits an oral application. The Model Rule does not state who can file and where to file an application. The DSHS rule does.				The Model Rule is reworded and renumbered to make reading and understanding easier.
425	040(3), 050(2), 190, 200, and none	Presiding Officers - Disqualification		434	040	Notice of Hearing
						Subsections 1 and 2 of the Model Rule are reworded to make reading and understanding easier.
425(1)	none	The Secretary intends that adjudicative proceedings be <u>de novo</u> and that the department's rule be the first source of authority in conducting and deciding adjudicative proceedings. Implicit in the concept of an adjudicative proceeding is that it be <u>de novo</u> . This rule makes that explicit. The APA at section 449(1) states that agency rules are to be used in the conduct of the proceeding but it and the Model Rules are silent on the order of precedence for the source of law to be used in deciding the issue. This rule covers that gap.				Subsection 3 of the Model Rule permitting waiver of defects in the notice of hearing is not carried into the DSHS rule because RCW 34.05.050 covers waivers well. The presiding officer's authority to permit a waiver is in DSHS rule section 425(2)(1).
425(2)(a)-(i)	200(1)-(9)	The first nine subsections of the DSHS rule are the same as Model Rule 200(1) through (9).		437	110	Filing and Service of Papers
						The Model Rule is reworded to make reading and understanding easier. Subsection 4 of the Model Rule stating filing of papers on the agency is complete upon receipt at any office of the agency is changed to require receipt at the Office of Appeals. The department's adjudicative proceeding rules require filing at that office.
425(2)(j)	190	The tenth subsection comes from Model Rule 190 as limited by APA section 449(5).		440	none	Default
						There is no Model Rule dealing with vacating an application that had been dismissed. The APA provides that the time to file a motion to vacate a default dismissal is seven days unless a longer period is set by agency rule. This DSHS rule sets a 14 day period after service of the order to file a motion to vacate a dismissal based on a default or a withdrawal and it contains the procedures.
425(2)(k)	200(10)	Model Rule 200(10) empowers the presiding officer to take any action "necessary and authorized by statute or rule." The DSHS rule at subsection (2)(k) deletes "statute" so as to limit the presiding officer's authority to that conferred by rule. This is not intended to preclude the presiding officer from taking action based on statute, but to condition his or her use of non-DSHS rules in accordance with subsection (1) of this DSHS rule.		446	120	Subpoenas
						The DSHS rule follows the Model Rule.
425(2)(1)	see 040(3)	Subsection (2)(1) is intended to broaden the scope of Model Rule 040(3) as envisioned by APA section 050 and to explicitly state the presiding officer's authority to permit a waiver. Situations arise in OSHS hearings where presiding officers must routinely rule on whether a person has waived a right; an example is whether a person who appears <u>pro se</u> at the hearing has knowingly waived		449	170;180	Procedure at Hearing

449(1)	180	<p>APA section 449(3) permits a hearing to be conducted by electronic means. Model Rule section 180 treats this subject. DSHS section 449(1) contains two differences from Model Rule. First, the DSHS rule contains the department's concurrence to conducting most hearings by electronic means so that agreement in these in each case is not necessary. Second, the DSHS rule imposes the conditions on telephone hearings for some programs receiving federal funds that the federal agencies require for their funding.</p>			<p>further department action when no petition for review is filed. Legal authority for this provision is APA section 454(1).</p> <p>. Subsection 5 of the DSHS rule has no counterpart in the Model Rules. It states the agency will give the nonpetitioning party notice that a petition for administrative review was filed. This is to assure that the party is aware of the petition and apprized of the right to respond. The section is necessary because some petitioners, especially <u>pro se</u> clients, fail to serve the other party. The department's curing the error is preferable to dismissing the petition on the procedural defect.</p>
449(2)	170	<p>APA section 449(4) deals with how oral proceedings are preserved. This is treated in Model Rule 170. DSHS section 449(2) is the same as the Model Rule.</p>			<p>. DSHS subsection (6) is the same as Model Rule 211 subsection (4) except the period to file a response to a petition is seven (instead of ten) days from the department's mailing the notice acknowledging receipt of the petition (instead of the date the petitioner served the petition) and the reviewing officer can extend the period.</p>
452	140;160(1)	<p>Rules of Evidence</p> <p>The first five subsections of this DSHS rule are the same as Model Rule section 140 with rewording for easier reading and understanding. The sixth subsection differs from Model Rule 140(6) by permitting withdrawal of a stipulation or admission during the proceedings instead of cutting of the right at "closure of the hearing." The cause for a party's seeking to withdraw could occur after closure and the department prefers to give the party in such a situation the opportunity to seek relief. The last subsection, requiring testimony to be under oath or affirmation, is contained in APA section 452(3) and is the same as Model Rule 160(1).</p>	470	215	<p>Reconsideration</p> <p>The DSHS rule is the same as the Model Rule except it states the specific address for filing a petition for reconsideration of a review decision.</p>
461	210	<p>Entry of Orders</p> <p>The DSHS rule differs from Model Rule section 210 only where necessary to make the Model Rule apply to initial orders. Nearly all DSHS programs use the initial order - petition for review - review order process.</p>	515	045	<p>Notice to Limited-English Speaking Parties</p> <p>DSHS section 515 is the same as Model Rule 045 with slight wording changes for clarity.</p>
464	211	<p>Review of Initial Orders</p> <p>DSHS section 464 loosely follows Model Rule section 211. Differences are:</p> <p>. Subsection 2 of the DSHS rule states the petition must be in writing, specifies where it is to be filed, and sets a fourteen day time limit which can be extended or waived by a reviewing officer. The first two changes are housekeeping. The third is a change from the Model Rule which sets a 20 day petition filing period or different place and time as stated in the initial order. This was rejected as (a) too rigid a time frame, (b) too long, or if the presiding officer sets a different time/place, too uncertain to assure that adjudicative orders in DSHS benefit programs will be made within required time limits.</p> <p>. Subsection 4 is the department's rule providing that initial orders in specified classes of cases become final without</p>	525	150;160(2)	<p>Interpreters</p> <p>DSHS section 525(1) through (11) is the same as Model Rule 150(1) through (11). DSHS Section 525(12) is the same as Model Rule 160(2). DSHS section 525(13) through (18) is the same as Model Rule 150(12) through (17).</p>
			535	none	<p>Group Hearing</p> <p>This section has no counterpart in the Model Rules. The department has consolidated applications for adjudicative proceedings filed by different people when each appeared to raise the same question of law. The rule contains safeguards in that any person in a group hearing may request to withdraw from the group in favor of an individual hearing and each member of the group is entitled to representation of his or her choice.</p>
			545	090	<p>Continuance</p> <p>OSHS section 545 is the same as Model Rule section 080 with slight rewording for clarity.</p>

388-320 section	10-08 section	comparison of the two chapters and reasons for variations
350	250	The department's rule is the same as the Model Rule.
360	251	Same
370	252	Same
400	260	Same
410	261	Same

555 none Disclosure of investigative and intelligence files.

This section has no counterpart in the Model Rules. It is needed because some programs have appeals involving allegations of client fraud investigated by the Office of Special Investigations.

Effective Date of Rule: Immediately.

June 30, 1989

Leslie F. James, Director
Administrative Services

565 080 Computation of Time

OSHS section 565 is the same as Model Rule section 090.

AMENDATORY SECTION (Amending Order 2076, filed 2/17/84)

none 230(1) Informal Settlement

The APA section 060 encourages agencies to offer informal settlement procedures that may make more elaborate proceedings unnecessary. The APA section permits an agency to establish informal settlement procedures by rule. The Model Rule would establish a single procedure for all informal settlements. The department is not adopting the Model Rule for two reasons. First, the department has created many informal settlement processes and they are tailored to best meet the needs of the kinds of disputes that arise in a particular program. The Model Rule's uniform procedure does not recognize this need for various procedures. While some of the department's informal settlement procedures are in rules (for example, the grievance procedure for public assistance programs in chapter 388-33 WAC), not all are. The department prefers to be able to use nonrule form for some informal settlements (for example, the disputes clause in most department contracts).

~~WAC 388-08-413 ((PROCEDURE ON REVIEW BY REVIEW JUDGE)) APPLICATION FOR AN ADJUDICATIVE PROCEEDING. (1) ((A petition for review shall be granted only if, in the reasoned opinion of the review judge, one of the grounds for review set forth in WAC 388-08-409(2) is shown. Otherwise, the petition for review shall be denied and the initial order or decision shall be the final decision of the secretary as of the date of denial of the petition or petitions for review)) Any person or authorized representative may file an oral or written application for an adjudicative proceeding.~~

none 230(2) Model Rule 230(2) deals with settlements in adjudicative proceedings. These settlements are, under the Model Rule, concluded by stipulation of the parties, withdrawal of the application, or withdrawal of the aggrieving agency action. The Model Rule then requires the stipulation to be signed by the parties or recited on the record and for the presiding officer to enter an appropriate order. The procedure for stipulations under this Model Rule provision appears to differ from a stipulation obtained at a prehearing conference. See Model Rules 130(1)(c), (3) and 170. The content of the settlement order appears to differ from that specified for initial orders in Model Rule 461.

The department has not proposed to adopt Model Rule 230(2) to avoid these possible conflicts and because its proposed 388-08 sections 425(2)(j); 431(1)(c), (3), and (4); 440; 452(6); 461; and 464 cover the topic adequately and consistently.

~~(2) ((In determining whether to grant review and in reviewing the initial order or decision, the review judge shall consider the initial order or decision, the petition or petitions for review, the record or any part thereof and any additional evidence submitted by the agreement of both parties in accordance with WAC 388-08-413(4).)) The application need not be in any particular form but shall specify the:~~

~~(a) ((The fourteen-day time limit established by WAC 388-08-409 for filing a petition for review of an initial order or decision shall be waived where the petitioner demonstrates good cause for failure to file a timely petition for review. Good cause includes mistake, inadvertence, and excusable neglect on the part of petitioner or unavoidable casualty or misfortune preventing the petitioner from timely filing a petition for review. Upon a showing of good cause, either party may petition for review of an initial order or decision within thirty days of the date the initial order or decision becomes final.)) Decision appealed;~~

~~(b) ((The fourteen-day time limit established by WAC 388-08-409 for filing a petition for review of the initial order or decision shall be waived where petitioner demonstrates that the initial decision was not received by petitioner. In such case the petitioner may petition for review of the initial decision within a reasonable period of time)) Reasons the appellant is dissatisfied with the decision; and~~

~~(c) Date the department notified the appellant of the decision.~~

~~(3) ((If review is granted, the administrative law judge's initial findings of fact, conclusions of law, and~~

~~decision shall not be modified by the review judge unless, in the reasoned opinion of the review judge:~~

~~(a) Irregularity in the proceedings occurred by which the petitioning party was prevented from having a fair hearing. This includes misconduct by the prevailing party and misconduct or abuse of discretion by the administrative law judge and/or~~

~~(b) The findings of fact are unsupported by substantial evidence in view of the entire record and/or~~

~~(c) The application of law in the conclusions is erroneous and/or~~

~~(d) There is need for clarification in order for the parties to implement the decision)) The appellant shall make an oral application to a responsible department employee. The appellant should confirm an oral application in writing within fourteen days.~~

~~(4) The ((review judge may accept additional evidence to correct omissions in the record, but only after notice to and agreement by both parties.~~

~~(5) The review judge may remand the proceedings to the administrative law judge for additional evidence or argument if:~~

~~(a) Neither party cited the law correctly applicable to the issue or issues defined at the hearing and additional evidence or argument is needed for the review judge to reach a reasoned decision. Nothing in this subsection shall be construed to allow the review judge to remand the case to consider additional grounds for denial, termination, or ineligibility for assistance which were not alleged by the department at the hearing.~~

~~(b) Irregularity in the proceedings occurred by which the party seeking review was prevented from having a fair hearing and additional evidence or argument is necessary to cure the irregularity or~~

~~(c) The review judge considers a remand necessary and both parties assent to the remand.~~

~~(6) If review is granted, the review judge shall render a reasoned decision affirming, reversing, modifying, or remanding the initial order or decision.~~

~~(7) The review decision shall be final on the date of filing and shall be the final decision of the secretary. The review judge shall file the original of the decision in the record of the proceedings and shall mail copies to the parties and their representatives)) appellant shall file a written application with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504.~~

NEW SECTION

WAC 388-08-410 APPLICATION OF CHAPTER 388-08 WAC. (1) This chapter applies to adjudicative proceedings in programs administered by the department of social and health services. Legal authority for adopting this chapter is RCW 34.05.220 (1)(a).

(2) If a provision in this chapter conflicts with a provision in the chapter containing the program's substantive rules, the provision in the chapter containing the program's substantive rules governs.

(3) The presiding officer is generally an administrative law judge (ALJ) from the office of administrative hearings. Presiding officer administrative and field office addresses are listed under WAC 10-04-020. The reviewing

officer is the secretary or a review judge from the department's office of appeals. The office of appeals is located in office building number 2, Olympia, and the mailing address is Office of Appeals, P.O. Box 2465, Olympia, WA 98504.

NEW SECTION

WAC 388-08-425 ADMINISTRATIVE LAW JUDGE (ALJ)—DISQUALIFICATION. (1) The ALJ shall:

(a) Conduct the hearing de novo;

(b) Apply as the first source of law governing an issue the rules of the department as adopted in the Washington Administrative Code (WAC);

(c) If there is no department rule governing the issue, resolve the issue on the basis of the best legal authority and reasoning available, including that found in federal and Washington constitutions, statutes and regulations, and court decisions;

(d) Not have the power to declare invalid any department rule;

(e) If the validity of any department rule is raised as an issue at any proceeding, permit arguments to be made on the record concerning that issue for subsequent review purposes; and

(f) If the sole issue is one of federal or state law requiring automatic assistance, benefit, scope of program, or fee or regulation adjustments for classes of people the department serves or regulates, dismiss the application without permitting argument to be made on the record regarding the validity of the law.

(2) The ALJ shall have the authority to:

(a) Determine the order of presentation of evidence;

(b) Administer oaths and affirmations;

(c) Issue subpoenas;

(d) Rule on procedural matters, objections, and motions;

(e) Rule on offers of proof and receive relevant evidence;

(f) Interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;

(g) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;

(h) Take any appropriate action necessary to maintain order during the hearing;

(i) Permit or require oral argument or briefs and determine the time limits for submission thereof;

(j) Permit photographic and recording equipment at hearings subject to conditions imposed by the ALJ to preserve confidentiality or to prevent disruption;

(k) Except to the extent not precluded by another provision of law, permit a person to waive any right conferred upon that person by chapters 34.05 RCW and/or chapter 388-08 WAC; and

(l) Take any other action necessary and authorized by any applicable rule.

(3) A motion of prejudice with a supporting affidavit under RCW 34.12.050 shall be filed three days or more

before the hearing or any earlier stage of the adjudicative proceeding when the ALJ may be required to issue a discretionary ruling. If the notice of hearing does not state the name of the presiding ALJ, the chief ALJ of the office of administrative hearings shall:

(a) Make such assignment five days or more before the hearing; and

(b) Disclose the assignment to any party or representative making inquiry.

(4) The chief ALJ or designee shall rule upon subsequent motions of prejudice filed by the same party in the same proceeding.

(5) An individual petitioning to disqualify an ALJ under RCW 34.05.425 shall file such petition with the ALJ assigned to preside over the proceeding.

NEW SECTION

WAC 388-08-431 **PREHEARING CONFERENCE.** (1) Upon the administrative law judge (ALJ)'s own motion or upon request of a party, the ALJ may direct the parties or the parties' representatives to engage in a prehearing conference.

(a) The purpose of a prehearing conference is to consider:

(i) Simplification of issues;

(ii) The necessity or desirability of amendments to the pleadings;

(iii) The possibility of obtaining stipulations, admissions of fact, and admissions of the authenticity of documents to avoid unnecessary proof;

(iv) Limitations on the number and consolidation of the examination of witnesses;

(v) Procedural matters;

(vi) Distribution of written testimony and exhibits to the parties before the hearing; and

(vii) Such other matters as may aid in the disposition or settlement of the proceeding.

(b) Prehearing conferences may be held by telephone conference call or at a time and place specified by the ALJ.

(c) Following the prehearing conference, the ALJ shall issue an order reciting the:

(i) Action taken at the conference;

(ii) Amendments allowed to the pleadings; and

(iii) Agreements made by the parties concerning all of the matters considered.

(d) If no objection to such order is filed within ten days after the date such order is mailed, the order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(2) Nothing in this rule shall limit the ALJ during any proceeding from conducting a conference before the taking of testimony or recessing the hearing and conducting a conference. The ALJ shall state on the record the results of such conference.

(3) Nothing in this rule shall limit the right of any agency to informally settle a matter to make an adjudicative proceeding unnecessary.

NEW SECTION

WAC 388-08-434 **NOTICE OF HEARING.** (1) The department or the office of administrative hearings shall serve a notice of hearing on the parties and representatives:

(a) Within the time required by the law governing the proceeding; and

(b) In the absence of a specific legal requirement, not less than seven days before the date set for the hearing.

(2) The notice shall include the information specified under RCW 34.05.434 and, if the hearing is conducted by teleconference call, the notice shall so state.

(3) The notice shall state:

(a) If a limited English-speaking or hearing impaired party or witness needs an interpreter, a qualified interpreter shall be appointed; and

(b) There shall be no cost to the party or witness.

(4) The notice shall include a form for a party to:

(a) Indicate the need for an interpreter; and

(b) Identify the primary language or hearing impaired status of the person.

NEW SECTION

WAC 388-08-437 **FILING AND SERVICE OF PAPERS.** (1) A party filing a pleading, brief, or other paper with the administrative law judge (ALJ) shall serve a copy of the paper upon:

(a) The other party; or

(b) If the other party is represented or has an agent, the other party's representative or agent.

(2) Service shall be made personally or, unless otherwise provided by law, by:

(a) First class, registered, or certified mail;

(b) Telegraph;

(c) Electronic telefacsimile transmission and same-day mailing of copies; or

(d) Commercial parcel delivery company.

(3) Service shall be regarded as completed when:

(a) Mail is properly stamped, addressed, and deposited in the United States mail;

(b) A telegram is properly addressed and deposited with a telegraph company with charges prepaid;

(c) An electronic telefacsimile transmission produces proof of transmission; or

(d) A commercial parcel is delivered to the parcel delivery company with charges prepaid.

(4) Papers required to be filed with the department shall be deemed filed upon actual receipt during office hours at the office of appeals. Papers required to be filed with the ALJ shall be deemed filed upon actual receipt during office hours at the office of the ALJ.

(5) Where proof of service is required by statute or rule, filing the papers with the ALJ, together with one of the following, shall constitute proof of service:

(a) An acknowledgement of service;

(b) The person signs the certificate on the date the certificate papers are served upon all parties of record in the proceeding and by delivering a copy in person to (names); and

(c) The person signs the certificate on the date the certificate papers are served upon all parties of record in the proceeding by:

(i) Mailing a copy properly addressed with postage prepaid to each party, the proceeding, or the party's representative or authorized agent; or

(ii) Telegraphing a copy properly addressed with charges prepaid to each party, the proceeding, or the party's representative or authorized agent; or

(iii) Transmitting a copy by electronic telefacsimile device and, on the same day, mailing a copy to each party, the proceeding, or the party's representative or authorized agent; or

(iv) Depositing a copy properly addressed with charges prepaid with a commercial parcel delivery company.

NEW SECTION

WAC 388-08-440 VACATING A DISMISSAL FOR REASON OF DEFAULT OR WITHDRAWAL.

(1) A party against whom a dismissal for reason of default or withdrawal is entered shall have the right to file a written motion requesting the order be vacated.

(2) The motion shall be filed at the Office of Appeals, P.O. Box 2465, Olympia, WA 98504, within fourteen days from the date the dismissal order was served.

(3) The motion shall state the grounds relied upon.

(4) If, in the reasoned opinion of the administrative law judge (ALJ), good cause to grant the relief is shown, the ALJ shall vacate the dismissal and reinstate the application.

NEW SECTION

WAC 388-08-446 SUBPOENAS. (1) Subpoenas shall be issued and enforced and witness fees paid, as provided under RCW 34.05.446.

(2) Every subpoena shall:

(a) Identify the party causing issuance of the subpoena;

(b) State the name of the agency as the department of social and health services;

(c) State the title of the proceeding; and

(d) Command the person to whom the subpoena is directed to attend and give testimony or produce designated books, documents, or things under the person's control at the time and place set for the hearing.

(3) A subpoena may be served by any suitable person eighteen years of age or older by:

(a) Exhibiting and reading the subpoena to the witness;

(b) Giving the witness a copy; or

(c) Leaving a copy at the place of the witness' residence.

(4) When a subpoena is served by other than an officer authorized to serve process, proof of service shall be made by affidavit.

(5) The administrative law judge, upon motion made promptly and in any event at or before the time specified for compliance in the subpoena, may:

(a) Quash or modify the subpoena if the subpoena is unreasonable and oppressive; or

(b) Condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

NEW SECTION

WAC 388-08-449 PROCEDURE AT HEARING.

(1)(a) The administrative law judge (ALJ) may conduct all or part of the hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

(2) Conducting a hearing by electronic means is subject to the following conditions:

(a) In the aid to families with dependent children program under Title IV-A and adult categories under Titles I, X, XIV, or XVI of the Social Security Act and in the food stamp disqualification program under 7 CFR 273.16, a teleconference hearing may be scheduled only if the notice of hearing informs the appellant the hearing will be converted to an in-person hearing upon motion filed with the ALJ at least one week before the hearing. The appellant does not have to show good cause to convert the hearing.

(b) In a program not described under subsection (1)(a) of this section or in such a program when the motion is made a week or less before the hearing, the ALJ shall grant the motion of a party showing good cause to convert a telephone hearing to an in-person hearing at a rescheduled time.

(3) When the hearing is conducted by electronic means, documentary evidence shall be submitted in advance as provided under WAC 388-08-452(2).

(4) The ALJ shall record the hearing by manual, electronic, or other type of recording device.

NEW SECTION

WAC 388-08-452 RULES OF EVIDENCE. (1) The administrative law judge (ALJ) shall rule upon objections to the admissibility of evidence pursuant to RCW 34.05.452.

(2) The ALJ may order:

(a) A party to submit documentary evidence to the ALJ and to the other parties sufficiently in advance of the hearing to permit study and preparation of cross-examination and rebuttal evidence;

(b) Documentary evidence, not submitted in advance, as required in subsection (2)(a) of this section, shall not be received in evidence in the absence of a clear showing the offering party had good cause for failure to produce the evidence sooner, unless the evidence is submitted for impeachment purposes; and

(c) The authenticity of all documents submitted in advance in a proceeding, when such submission is required, to be deemed admitted unless written objection is filed before the hearing. However, a party shall be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to file such written objection.

(3) When portions only of a document are relied upon, the offering party shall identify the pertinent excerpts and state the purpose the materials are offered. Only the excerpts, in the form of copies, shall be received in the record. However, the whole of the original documents, except any portions containing confidential material protected by law, shall be made available for examination and for use by all parties.

(4) No former employee of the department shall, except with the permission of the department, appear as an expert witness on behalf of other parties in a proceeding where the expert witness previously took an active part in the investigation as a department representative.

(5) The refusal of a witness to answer any question ruled proper shall, in the discretion of the ALJ, be grounds for striking all testimony previously given by such witness on the related matter.

(6) A party bound by a stipulation or an admission of record may, at any time during the proceeding, withdraw the same in whole or in part by showing to the satisfaction of the ALJ that:

(a) Such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact; and

(b) The party's withdrawal, at the time proposed, will not unjustly prejudice the rights of other parties to the proceeding.

(7) A person called as a witness in a hearing shall swear or affirm that the testimony the witness is about to give in the hearing shall be the truth under the provisions of RCW 5.28.020, 5.28.030, 5.28.040, 5.28.050, and 5.28.060.

NEW SECTION

WAC 388-08-461 ENTRY OF ORDERS. Every order shall:

(1) Correctly caption both the name of the agency and the proceeding;

(2) Designate the parties and representatives participating in the proceeding;

(3) Include a concise statement of the nature and background of the proceeding;

(4) Contain appropriately numbered findings of fact meeting the requirements under RCW 34.05.461;

(5) Contain appropriately numbered conclusions of law, including citations of relied-upon statutes and rules;

(6) Contain an initial order disposing of the contested issues; and

(7) Contain a statement describing the parties' right to file a petition for review.

NEW SECTION

WAC 388-08-464 PETITION FOR REVIEW—RESPONSE TO PETITION—DISQUALIFICATION OF REVIEW JUDGE. (1) Any party shall have the right to file a petition for review of an order entered by an administrative law judge.

(2) The petition for review shall be in writing and filed with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504, within fourteen days from the date

of service of the initial order. Copies of the petition shall be served upon the other party or the other party's representative at the time the petition is filed.

(3) The petition for review shall:

(a) Specify the portions of the order to which exception is taken; and

(b) Refer to the evidence of record relied upon to support the petition.

(4) If a petition for review is not filed within fourteen days from service of the initial order, the initial order shall become the final order. However, an initial order shall not become the final order after a food stamp administrative disqualification hearing and each party shall have the right to file a petition for review, but whether a petition for review is or is not filed, the review judge shall enter the final order on behalf of the secretary.

(5) A review judge shall extend the fourteen-day period to file a petition for review upon motion of a party when:

(a) The motion is made during the fourteen-day period; and

(b) Good cause for the extension is shown.

(6) The review judge shall waive the fourteen-day limit for filing a petition for review when:

(a) A petition for review is filed within thirty days of the date the initial order becomes final; and

(b) The petitioner demonstrates good cause for failure to file a timely petition. Good cause includes:

(i) A mistake, inadvertence, or excusable neglect on the part of the petitioner; or

(ii) An unavoidable casualty or misfortune preventing the petitioner from timely filing a petition for review.

(7) When a petition for review is filed, the office of appeals shall send a copy of the petition to the nonpetitioning party or, if represented, to the representative with a notice of the right to file a response.

(8) The nonpetitioning party shall file any response with the office of appeals within seven days of the date that office served a copy of the petition on the nonpetitioning party or representative.

(9) The nonpetitioning party shall serve a copy of the response upon the petitioner or, if the petitioner is represented, on the petitioner's representatives at the time the response is filed. The nonpetitioning party shall also serve a copy on any other party or, if represented, on the other party's representative at the time the response is filed.

(10) A review judge may extend the period to file a response upon motion of a party showing good cause.

(11) The chief review judge shall disclose the assignment of a review judge to any party or representative making inquiry. An individual petitioning to disqualify a review judge under RCW 34.05.425 shall file such petition with the review judge assigned to the proceeding.

NEW SECTION

WAC 388-08-470 RECONSIDERATION. A petition for reconsideration of a review order under RCW 34.05.470 shall be filed at the Office of Appeals, P.O. Box 2465, Olympia, WA 98504.

NEW SECTION

WAC 388-08-515 NOTICE TO LIMITED-ENGLISH-SPEAKING PARTIES. When a limited-English-speaking person is a party in an adjudicative proceeding, all notices concerning the hearing, including notices of hearing, continuance, and dismissal shall:

- (1) Be written in the primary language of the party; or
- (2) Include a notice in the primary language of the party describing:
 - (a) The significance of the notice; and
 - (b) How the party may receive assistance in understanding the notice and, if necessary, responding to the notice.

NEW SECTION

WAC 388-08-525 INTERPRETERS. (1) A "hearing impaired person" means a person who, because of a hearing impairment or speech defects, cannot readily understand or communicate in spoken language. A "hearing impaired person" includes a person who is deaf, deaf and blind, or hard of hearing.

(2) An "impaired person" means a person involved in an adjudicative proceeding and is a:

- (a) Hearing impaired person; or
- (b) Limited-English-speaking person.

(3) An "intermediary interpreter" means a hearing impaired interpreter:

(a) The registry of interpreters for the deaf certifies with a reverse skills certificate;

(b) Meeting the requirements under subsection (9) of this section; and

(c) Able to assist by:

(i) Providing an accurate interpretation between spoken and sign language or between variants of sign language; and

(ii) Acting as an intermediary between a hearing impaired person and a qualified interpreter for the hearing impaired.

(4) A "limited-English-speaking person" means a person who because of a non-English-speaking cultural background cannot readily speak or understand the English language.

(5) A "qualified interpreter" means a person:

(a) Readily able to interpret spoken English and translate written English to and for an impaired person; and

(b) Readily able to interpret or translate statements of an impaired person into spoken English; and

(c) Meeting the requirements of subsection (9) of this section provided, for hearing impaired persons, a qualified interpreter shall be certified by the registry of interpreters for the deaf with a:

- (i) Specialist certificate-legal;
- (ii) Master's comprehensive skills certificate; or
- (iii) Comprehensive skills certificate.

(6) When an impaired person is a party to any adjudicative proceeding or witness therein, the administrative law judge (ALJ) shall, in the absence of a written waiver signed by the impaired person, appoint a qualified interpreter to assist the impaired person throughout the

proceedings. The right to a qualified interpreter may not be waived except when:

(a) The impaired person requests a waiver through the use of a qualified interpreter;

(b) The impaired person's representative, if any, consents; and

(c) The ALJ determines the waiver is knowingly, voluntarily, and intelligently complete.

(7) Waiver of a qualified interpreter shall not preclude the impaired person from claiming the right to a qualified interpreter at a later time during the proceeding.

(8) In a proceeding, both the participant's relatives and the involved agency employees shall not be appointed as interpreters. Subsection (8) of this section shall not prohibit the office of administrative hearings from hiring an employee whose sole function is to interpret in an adjudicative proceeding.

(9) The ALJ shall make a preliminary determination that an interpreter is able in the particular proceeding to accurately interpret communication to and from the impaired person. The ALJ's determination shall be based on the:

(a) Testimony or stated needs of the impaired person;

(b) Interpreter's education, certifications, and experience in interpreting for contested cases and/or adjudicative proceedings;

(c) Interpreter's understanding of the basic vocabulary and procedure involved in the proceeding; and

(d) Interpreter's impartiality.

The parties or the parties' representative may question the interpreter as to the interpreter's qualifications and impartiality.

(10) The ALJ shall appoint another qualified interpreter if during the proceeding, in the opinion of the impaired person, the ALJ, or a qualified observer, the interpreter does not provide accurate and effective communication with the impaired person.

(11) If the communication mode or language of a hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the ALJ who shall appoint and pay an intermediary interpreter to assist the qualified interpreter.

(12) An interpreter shall, before beginning to interpret, take an oath that:

(a) A true interpretation will be made to the examined person of all the proceedings in a language or in a manner the person understands; and

(b) The interpreter will repeat the statements of the person being examined to the ALJ, in the English language, to the best of the interpreter's skill and judgment.

(13) Mode of interpretation. Interpreters for:

(a) Limited-English-speaking persons shall use a simultaneous mode of interpretation where the ALJ and interpreter agree simultaneous interpretation advances fairness and efficiency; otherwise, the interpreter shall use the consecutive mode of foreign language interpretation; and

(b) Hearing impaired persons shall use the simultaneous mode of interpretation unless an intermediary interpreter is needed. If an intermediary interpreter is

needed, interpreters shall use the mode the qualified interpreter considers to provide the most accurate and effective communication with the hearing impaired person.

(c) When an impaired person is a party to a proceeding, the:

(i) Interpreter shall translate all statements made by other hearing participants;

(ii) ALJ shall ensure sufficient, extra time is provided to permit translation; and

(iii) ALJ shall ensure the interpreter translates the entire proceeding to the party to the extent the party has the same opportunity to understand the statements made during the proceedings as a nonimpaired party has when listening to uninterpreted statements.

(14) An examiner shall not examine a qualified interpreter, without the written consent of the parties to the communication, as to the:

(a) Communication the interpreter interprets under circumstances where the communication is privileged by law; and

(b) Information the interpreter obtains while interpreting a pending proceeding.

(15) The ALJ shall explain to the impaired party:

(a) A written decision or order is issued in English; and

(b) The party may contact the interpreter for a translation of the decision at no cost to the party; and

(c) If the party has a right to review the order, the party is orally informed during the hearing of the right and of the time limits to request a review.

(16) At the hearing, the interpreter for a limited-English-speaking party shall provide to the ALJ the interpreter's telephone number written in the primary language of the impaired party. The interpreter's telephone number shall be attached to the order mailed to the impaired party. A copy of the order shall also be mailed to the interpreter for use in translation.

(17) In any proceeding involving a hearing impaired person, the ALJ may, with the consent of the agency involved in the hearing, order the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use as the official transcript of the proceeding. Where simultaneous translation is used for interpreting statements of limited-English-speaking persons, the foreign language statements shall be recorded simultaneously with the English language statements by means of a separate tape recorder.

(18) A qualified interpreter appointed under this section shall be entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The agency involved in the hearing shall pay the interpreter fee and expenses. The interpreter services fee for a hearing impaired person shall be under the standards established by the department of social and health services, office of deaf services.

NEW SECTION

WAC 388-08-535 GROUP HEARING. (1) When two or more appellants file an application to appeal a similar issue, the applications may be consolidated by the department and heard as a group.

(2) An appellant scheduled for a group hearing may withdraw from a group hearing in favor of an individual hearing. An appellant's motion to withdraw from a group hearing shall be granted if the motion is filed before the:

(a) Administrative law judge (ALJ) has made a discretionary ruling; and

(b) Date of the hearing.

(3) The ALJ may grant a motion to withdraw filed later for good cause.

(4) Each appellant shall retain the right to representation of the appellant's choice.

NEW SECTION

WAC 388-08-545 CONTINUANCE. (1) The administrative law judge (ALJ) may:

(a) Order postponements, continuances, extensions of time, and adjournments on the ALJ's own motion; or

(b) Grant postponements, continuances, extensions of time, and adjournments upon the motion of any party, with notice to all other parties, showing good and sufficient cause.

(2) A motion for a continuance made before the hearing date may be either oral or in writing and shall state the:

(a) Party seeking the continuance notified the other parties of the motion; and

(b) Other notified parties either:

(i) Agreed to the continuance; or

(ii) Did not agree to the continuance. If the other parties did not agree to the continuance, the ALJ shall promptly schedule a prehearing conference to receive argument and to rule on the motion.

NEW SECTION

WAC 388-08-555 SEPARATE HEARING REGARDING DISCLOSURE OF INVESTIGATIVE AND INTELLIGENCE FILES. (1) In the event an adjudicative proceeding regarding public assistance or food stamp program is being conducted under chapter 388-08 WAC, the appellant shall be advised of the appellant's right to seek inspection of the data. If the appellant seeks disclosure of any data maintained by the office of special investigation which is subject to the exemption contained in WAC 388-320-220(3), the following process shall be followed to determine whether, on a case-by-case basis, such disclosure shall be ordered:

(a) The appellant or the appellant's representative shall file a written request with the office of appeals or the administrative law judge (ALJ), if one has been appointed, no later than fifteen days prior to the hearing;

(b) The request must identify the type of information sought;

(c) The request shall state the reasons why the requester believes disclosure of the information is necessary;

(d) The request shall identify the local community service office or the office of special investigation field office where the appellant would review the documents;

(e) The office of appeals or ALJ shall forward a copy of the request to the office of special investigation at the main office of special investigation in Olympia; and

(f) Upon a showing of good cause by the appellant, the fifteen-day notice period may be shortened by the ALJ.

(2) Within ten days of receipt of a properly filed request, the office of special investigation shall determine whether any of the documents sought are within the exemptions for disclosure listed in WAC 388-320-220

(3)(a). Such documents, if any, shall be sealed in an envelope clearly designated as confidential documents of the office of special investigation. These documents shall then be placed in the office of special investigation file.

The office of special investigation shall then notify the appellant or representative in writing of the office of special investigation's action and the appellant or representative's right to a disclosure hearing. If any information has been placed in a sealed envelope and excluded from disclosure, the notice shall state the specific exemption or exemptions of WAC 388-320-220(3) relied upon for this action. The notice shall provide the appellant a ten-day opportunity to inspect the office of special investigation file by the person or the person's representative who is the subject of the proceedings at the appropriate community service office or office of special investigation field office as designated by the appellant. In no event shall the investigative file leave the physical control of the designated office of special investigation records custodian: **PROVIDED**, That appellant may copy all documents not sealed in an envelope as confidential material as provided in WAC 388-320-140.

(3) If no amended request for disclosure pursuant to WAC 388-08-430(4) is filed properly, the issue of disclosure will be regarded as moot.

(4) If the appellant wants further disclosure, the appellant shall file an amended request for disclosure with the ALJ. The ALJ shall schedule a separate, in camera hearing to be held for the purpose of determining whether and to what extent disclosure of information exempted in WAC 388-320-220(3) should be allowed.

(a) The department shall have the burden of proving, by a preponderance of the credible evidence, the necessity exists for protecting confidential information which clearly outweighs the interests of disclosure.

(b) Either party may offer witnesses to testify on the issue of disclosure. In the event the appellant calls witnesses from the state, investigative, law enforcement, or penology agencies as adverse witnesses, the appellant may ask leading questions.

(c) Attendance shall be limited to the parties, the parties' representatives, the ALJ, and any witnesses to be called: **PROVIDED**, That upon the request of either party, or upon the ALJ's own motion, the ALJ may exclude from the hearing witnesses not testifying.

(d) In determining whether any information should be disclosed to the appellant, the ALJ shall review the information, but shall not disclose the information to the appellant.

(e) The ALJ shall enter an initial order:

(i) If the information sought is pertinent to any ongoing criminal investigation, disclosure shall only be ordered by a superior court of this state;

(ii) The ALJ shall order nondisclosure of specific information consistent with the requirements of WAC 388-320-220 after making findings of fact showing:

(A) The information sought to be disclosed is inadmissible and immaterial to establishing a defense; and

(B) Specific investigative or intelligence information, which cannot be deleted from any specific records sought, is clearly necessary to protect any vital governmental function, ongoing criminal investigation, or individual's right of privacy; and

(C) After weighing the public interest in protecting the flow of information against the individual's right to prepare the individual's defense, the evidence demonstrates it is necessary that particular intelligence or investigative information not be disclosed.

(iii) An order for disclosure shall state the times and methods for inspection of the documents. In no event shall such decision compel the release of original documents but, rather, where release is ordered, copies shall be provided. Copying documents is governed by WAC 388-320-140.

(f) Each party has the right to file a petition for review for review of the initial order. There shall be no disclosure pursuant to an initial order until all review proceedings have been exhausted.

NEW SECTION

WAC 388-08-565 COMPUTATION OF TIME.

(1) When computing a period of time prescribed or allowed by an applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run shall not be included.

(2) The last day of the computed period shall be included unless the last day is a Saturday, Sunday, or a legal holiday.

(3) When the last day is a Saturday, Sunday, or a legal holiday, the period shall run until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

(4) When the period of time prescribed or allowed is seven days or less, the intermediate Saturday and Sunday, and any legal holiday, shall be excluded in the computation.

REPEALER

The following sections of the Washington Administrative Code are repealed:

388-08-00201 SCOPE OF CHAPTER 388-08 WAC.

388-08-00401 AUTHORITY TO ADJUDICATE.

388-08-006 ADMINISTRATIVE HEARING—FORM OF REQUEST.

388-08-00601 ADMINISTRATIVE HEARING—GROUP HEARING.

388-08-010 ADMINISTRATIVE HEARING—WHO MAY APPEAR AS A REPRESENTATIVE.

388-08-405 WITHDRAWAL—DISMISSAL—SETTLEMENT.

388-08-406 DECISION-RENDERING PROCEDURE-PROPOSAL FOR DECISION.

388-08-409 PETITION FOR REVIEW BY REVIEW JUDGE.

388-08-416 SELECTED FINAL DECISIONS AS PRECEDENT.

388-08-435 SEPARATE HEARING REGARDING DISCLOSURE OF INVESTIGATIVE AND INTELLIGENCE FILES.

388-08-540 PETITIONS FOR RULE-MAKING AMENDMENT OR REPEAL-WHO MAY PETITION.

388-08-550 UPDATING MAILING LISTS.

388-08-560 DELEGATION OF AUTHORITY BY SECRETARY.

388-08-580 DECLARATORY RULINGS.

388-08-590 FORMS.

Chapter 388-320 WAC
PUBLIC RECORDS(=)DISCLOSURE-ADMINISTRATIVE PROCEDURES

NEW SECTION

WAC 388-320-340 DELEGATION OF AUTHORITY BY SECRETARY. Under RCW 43.20A.110, certain powers and duties have been delegated to the secretary. Writings evidencing delegations of authority are on file in the secretary's office and may be inspected between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

NEW SECTION

WAC 388-320-350 DECLARATORY ORDERS-FORMS, CONTENT, AND FILING. A petition for a declaratory order shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of social and health services." On the left side of page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory order." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

(3) The original and two legible copies shall be filed with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504. Petitions shall be on white paper, 8 1/2" x 11" in size.

NEW SECTION

WAC 388-320-360 DECLARATORY ORDERS-PROCEDURAL RIGHTS OF PERSONS IN RELATION TO PETITION. If a petition for a declaratory order is set for specified proceedings under RCW 34.05.240 (5)(b), the department shall give not less than seven days advance written notice of the proceedings to the petitioner and all persons described under RCW 34.05.240(3). The notice shall contain the time, date, place, and nature of the proceedings and shall describe how interested persons may participate in the proceeding.

NEW SECTION

WAC 388-320-370 DECLARATORY ORDERS-DISPOSITION OF PETITION. A declaratory order entered by the department or a decision declining to enter a declaratory order shall be in writing and shall be served upon the petitioner and all other persons described under RCW 34.05.240(3).

NEW SECTION

WAC 388-320-400 PETITION FOR RULE MAKING-FORM, CONTENT, AND FILING. A petition for adoption, amendment, or repeal of a rule shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of social and health services." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for rule making." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the adoption of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(3) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504. Petitions shall be on white paper 8 1/2" x 11" in size.

NEW SECTION

WAC 388-320-410 PETITION FOR RULE MAKING—CONSIDERATION AND DISPOSITION. (1) Each petition for the adoption, amendment, or repeal of a rule shall be considered by the department and the department may, in its discretion, solicit comments or invite discussion concerning the matter before disposition of the petition.

(2) If the department denies the petition, the denial shall be served upon the petitioner.

NEW SECTION

WAC 388-320-500 UPDATING MAILING LISTS. (1) Periodically, the department may cause the following notice, or a notice substantially similar, to be mailed: "In order to maintain as current a mailing list as possible, and to eliminate mailing notices to those who no longer have need for such notices, the department will discontinue use of its old mailing lists, effective (date to be specified). If you wish to continue receiving copies of notices of intention to adopt, amend or repeal rules after that date, please fill out the attached form and return it to the department at the address indicated on the form. If you do not return the form indicating your desire to continue to receive notices to adopt, amend or repeal rules, your name or the names of your organization will be removed from the mailing lists."

(2) The notice regarding updating of mailing lists is to be mailed by first-class mail.

(3) The form to be filled out by those persons or organizations wishing to continue to receive department notices to adopt, amend or repeal rules shall specify interest areas covered by these notices, thereby enabling those on mailing lists to limit correspondence received.

WSR 89-14-100**EMERGENCY RULES****DEPARTMENT OF LABOR AND INDUSTRIES**

[Order 89-10—Filed July 1, 1989, 12:10 p.m.]

Date of Adoption: July 1, 1989.

Purpose: To ensure a healthful and safe workplace for all employees in Washington state. State-initiated changes to comply with Washington state SSB 5681 which amends chapter 49.26 RCW relating to asbestos projects, to correct terminology, and to make new legislative requirements available in WAC standards for enforcement.

Citation of Existing Rules Affected by this Order: Amending WAC 296-62-07703, 296-62-07707, 296-62-07712, 296-62-07721, 296-62-07753, 296-65-010, 296-65-001, 296-65-003, 296-65-005, 296-65-015, 296-65-020, 296-65-025 and 296-65-030.

Statutory Authority for Adoption: Chapters 34.04 [34.05] and 49.17 RCW and chapter 1-12 [1-21] WAC.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the

public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These amendments are being adopted to comply with 1989 Washington state SSB 5681. Emergency adoption is necessary to provide immediate safety and health protection to the worker in Washington state.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: No.

Effective Date of Rule: Immediately.

July 1, 1989

Joseph A. Dear
Director

Reviser's note: WAC 296-62-07703, 296-62-07707, 296-62-07712 and 296-62-07721 are referred to in the agency's CR-103 form; however, the text of the sections was not included with the filing by the agency. cf. RCW 34.08.020 (1)(a).

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-62-07753 APPENDIX J—WORK PRACTICES AND ENGINEERING CONTROLS FOR SMALL-SCALE, SHORT-DURATION ASBESTOS RENOVATION AND MAINTENANCE ((OPERATIONS)) ACTIVITIES—NONMANDATORY. This appendix is not mandatory, in that employers may choose to comply with all of the requirements of WISHA's standard for occupational exposure to asbestos during construction activities, WAC 296-62-077 through 296-62-07753. However, employers wishing to be exempted from the requirements of WAC 296-62-07712 shall comply with the provisions of this appendix when performing small-scale, short-duration renovation or maintenance operations. WISHA anticipates that employers in the electrical, carpentry, utility, plumbing, and interior construction trades may wish to avail themselves of the final standard's exemptions for small-scale, short-duration renovation and maintenance ((operations)) activities.

(1) Definition of small-scale, short-duration ((operations)) activities. For the purposes of this appendix, small-scale, short-duration renovation and maintenance activities are tasks (~~involving less than ten linear feet and less than eleven square feet of material. This means a total of eleven square feet of material whether on flat surfaces or not and includes pipes. Regardless of pipe diameter, runs cannot exceed ten linear feet. The tasks include~~) such as, but ((are)) not limited to:

Removal of asbestos-containing insulation on pipes;
Removal of small quantities of asbestos-containing insulation on beams or above ceilings;

Replacement of an asbestos-containing gasket on a valve;

Installation or removal of a small section of drywall;
Installation of electrical conduits through or proximate to asbestos-containing materials.

Evidence in the record suggests that the use of certain engineering and work practice controls is capable of reducing employee exposures to asbestos to levels below

the action level (0.1 f/cc). Several controls and work practices, used either singly or in combination, can be employed effectively to reduce asbestos exposures during small maintenance and renovation operations. These include:

- Wet methods;
- Removal methods;
- Use of glove bags;
- Removal of entire asbestos insulated pipes or structures;
- Use of mini-enclosures;
- Enclosure of asbestos materials; and
- Maintenance programs.

This appendix describes these controls and work practices in detail.

(2) Preparation of the area before renovation or maintenance activities. The first step in preparing to perform a small-scale, short-duration asbestos renovation or maintenance task, regardless of the abatement method that will be used, is the removal from the work area of all objects that are movable to protect them from asbestos contamination. Objects that cannot be removed must be covered completely with a 6-mil-thick polyethylene plastic sheeting before the task begins. If objects have already been contaminated, they should be thoroughly cleaned with a high-efficiency particulate air (HEPA) filtered vacuum or be wet wiped before they are removed from the work area or completely encased in the plastic.

(3) Wet methods. Whenever feasible, and regardless of the abatement method to be used (e.g., removal, enclosure, use of glove bags), wet methods must be used during small-scale, short-duration maintenance and renovation activities that involve disturbing asbestos-containing materials. Handling asbestos materials wet is one of the most reliable methods of ensuring that asbestos fibers do not become airborne, and this practice should therefore be used whenever feasible. Wet methods can be used in the great majority of workplace situations. Only in cases where asbestos work must be performed on live electrical equipment, on live steam lines, or in other areas where water will seriously damage materials or equipment may dry removal be performed. Amended water or another wetting agent should be applied by means of an airless sprayer to minimize the extent to which the asbestos-containing material is disturbed.

Asbestos-containing materials should be wetted from the initiation of the maintenance or renovation operation and wetting agents should be used continually throughout the work period to ensure that any dry asbestos-containing material exposed in the course of the work is wet and remains wet until final disposal.

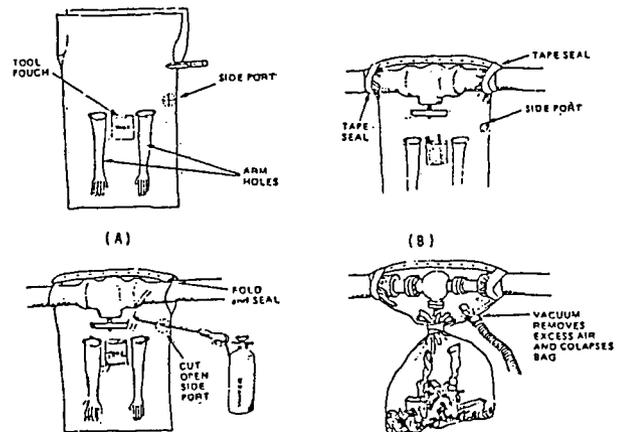
(4) Removal of small amount of asbestos-containing materials. Several methods can be used to remove small amounts of asbestos-containing materials during small-scale, short-duration renovation or maintenance tasks. These include the use of glove bags, the removal of an entire asbestos-covered pipe or structure, and the construction of mini-enclosures. The procedures that employers must use for each of these operations if they

wish to avail themselves of the final rule's exemptions are described in the following subsections.

(5) Glove bags. The use of glove bags to enclose the work area during small-scale, short-duration maintenance or renovation activities will result in employee exposures to asbestos that are below the action level of 0.1 f/cc. This appendix provides requirements for glove bag procedures to be followed by employers wishing to avail themselves of the standard's exemptions for each activities. WISHA has determined that the use of these procedures will reduce the eight-hour time-weighted average (TWA) exposures of employees involved in these work operations to levels below the action level and will thus provide a degree of employee protection equivalent to that provided by compliance with all provisions of the final rule.

(a) Glove bag installation. Glove bags are approximately forty-inch-wide times sixty-four-inch-long bags fitted with arms through which the work can be performed (see Figure J-1(A)). When properly installed and used, they permit workers to remain completely isolated from the asbestos material removed or replaced inside the bag. Glove bags can thus provide a flexible, easily installed, and quickly dismantled temporary small work area enclosure that is ideal for small-scale asbestos renovation or maintenance jobs.

Figure J-1. Diagrams showing proper use of glove bags in small-scale, short-duration maintenance and renovation operations



These bags are single use control devices that are disposed of at the end of each job. The bags are made of transparent 6-mil-thick polyethylene plastic with arms made of material such as Tyvek* (the same material used to make the disposable protective suits used in major asbestos removal, renovation, and demolition operations and in protective gloves). Glove bags are readily available from safety supply stores or specialty asbestos removal supply houses. Glove bags come pre-labeled with the asbestos warning label prescribed by WISHA and EPA for bags used to dispose of asbestos waste.

(b) Glove bag equipment and supplies. Supplies and materials that are necessary to use glove bags effectively include:

(i) Tape to seal the glove bag to the area from which asbestos is to be removed;

(ii) Amended water or other wetting agents;

(iii) An airless sprayer for the application of the wetting agent;

(iv) Bridging encapsulant (a paste-like substance for coating asbestos) to seal the rough edges of any asbestos-containing materials that remain within the glove bag at the points of attachment after the rest of the asbestos has been removed;

(v) Tools such as razor knives, nips, and wire brushes (or other tools suitable for cutting wire, etc.);

(vi) A HEPA filter-equipped vacuum for evacuating the glove bag (to minimize the release of asbestos fibers) during removal of the bag from the work area and for cleaning any material that may have escaped during the installation of the glove bag; and

(vii) HEPA-equipped cartridge respirators for use by the employees involved in the removal of asbestos with the glove bag.

(c) Glove bag work practices. The proper use of glove bags requires the following steps:

(i) Glove bags must be installed so that they completely cover the pipe or other structure where asbestos work is to be done. Glove bags are installed by cutting the sides of the glove bag to fit the size of the pipe from which asbestos is to be removed. The glove bag is attached to the pipe by folding the open edges together and securely sealing them with tape. All openings in the glove bag must be sealed with duct tape or equivalent material. The bottom seam of the glove bag must also be sealed with duct tape or equivalent to prevent any leakage from the bag that may result from a defect in the bottom seam (Figure J-1(B)).

(ii) The employee who is performing the asbestos removal with the glove bag must don a half-mask dual-cartridge HEPA-equipped respirator, respirators and protective clothing should be worn by employees who are in close contact with the glove bag and who may thus be exposed as a result of small gaps in the seams of the bag or holes punched through the bag by a razor knife or a piece of wire mesh.

(iii) The removed asbestos material from the pipe or other surface that has fallen into the enclosed bag must be thoroughly wetted with a wetting agent (applied with an airless sprayer through the precut port provided in most glove bags or applied through a small hole cut in the bag) (Figure J-1(C)).

(iv) Once the asbestos material has been thoroughly wetted, it can be removed from the pipe, beam or other surface. The choice of tool to use to remove the asbestos-containing material depends on the type of material to be removed. Asbestos-containing materials are generally covered with painted canvas and/or wire mesh. Painted canvas can be cut with a razor knife and peeled away from the asbestos-containing material underneath. Once the canvas has been peeled away, the asbestos-containing material underneath may be dry, in which case it should be resprayed with a wetting agent to ensure that it generates as little dust as possible when removed. If the asbestos-containing material is covered

with wire mesh, the mesh should be cut with nips, tin snips, or other appropriate tool and removed.

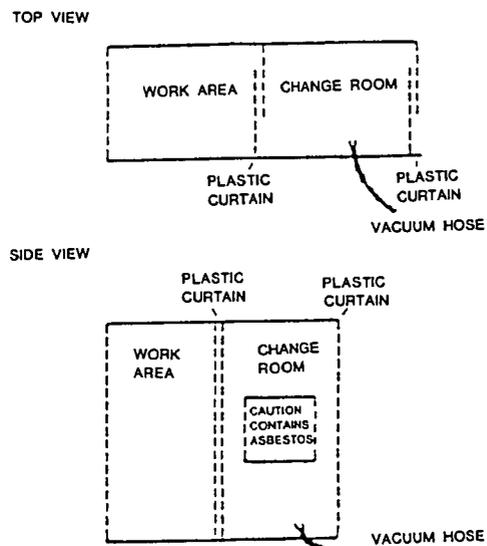
A wetting agent must then be used to spray any layer of dry material that is exposed beneath the mesh, the surface of the stripped underlying structure, and the inside of the glove bag.

(v) After removal of the layer of asbestos-containing material, the pipe or surface from which asbestos has been removed must be thoroughly cleaned with a wire brush and wet wiped with a wetting agent until no traces of the asbestos-containing material can be seen.

(vi) Any asbestos-containing insulation edges that have been exposed as a result of the removal or maintenance activity must be encapsulated with bridging encapsulant to ensure that the edges do not release asbestos fibers to the atmosphere after the glove bag has been removed.

(vii) When the asbestos removal and encapsulation have been completed, a vacuum hose from a HEPA-filtered vacuum must be inserted into the glove bag through the port to remove any air in the bag that may contain asbestos fibers. When the air has been removed from the bag, the bag should be squeezed tightly (as close to the top as possible), twisted, and sealed with tape, to keep the asbestos materials safely in the bottom of the bag. The HEPA vacuum can then be removed from the bag and the glove bag itself can be removed from the work area to be disposed of properly (Figure J-1(D)).

Figure J-2. Schematic of mini-enclosure



(6) Mini-enclosures. In some instances, such as removal of asbestos from a small ventilation system or from a short length of duct, a glove bag may not be either large enough or of the proper shape to enclose the work area. In such cases, a mini-enclosure can be built around the area where small-scale, short-duration asbestos maintenance or renovation work is to be performed (Figure J-2). Such an enclosure should be constructed of 6-mil-thick polyethylene plastic sheeting and can be small enough to restrict entry to the asbestos work area to one worker.

For example, a mini-enclosure can be built in a small utility closet when asbestos-containing duct covering is to be removed. The enclosure is constructed by:

(a) Affixing plastic sheeting to the walls with spray adhesive and tape;

(b) Covering the floor with plastic and sealing the plastic covering the floor to the plastic on the walls;

(c) Sealing any penetrations such as pipes or electrical conduits with tape; and

(d) Constructing a small change room (approximately three feet square) made of 6-mil-thick polyethylene plastic supported by two-inch by four-inch lumber (the plastic should be attached to the lumber supports with staples or spray adhesive and tape).

The change room should be contiguous to the mini enclosure, and is necessary to allow the worker to vacuum off his protective coveralls and remove them before leaving the work area. While inside the enclosure, the worker should wear Tyvek¹ disposable coveralls and use the appropriate HEPA filtered dual cartridge respiratory protection.

The advantages of mini-enclosures are that they limit the spread of asbestos contamination, reduce the potential exposure of bystanders and other workers who may be working in adjacent areas, and are quick and easy to install. The disadvantage of mini-enclosures is that they may be too small to contain the equipment necessary to create a negative pressure within the enclosure; however, the double layer of plastic sheeting will serve to restrict the release of asbestos fibers to the area outside the enclosure.

(7) Removal of entire structures. When pipes are insulated with asbestos-containing materials, removal of the entire pipe may be more protective, easier, and more cost-effective than stripping the asbestos insulation from the pipe. Before such a pipe is cut, the asbestos-containing insulation must be wrapped with 6-mil polyethylene plastic and securely sealed with duct tape or equivalent. This plastic covering will prevent asbestos fibers from becoming airborne as a result of the vibration created by the power saws used to cut the pipe. If possible, the pipes should be cut at locations that are not insulated to avoid disturbing the asbestos. If a pipe is completely insulated with asbestos-containing materials, small sections should be stripped using the glove-bag method described above before the pipe is cut at the stripped sections.

(8) Enclosure. The decision to enclose rather than remove asbestos-containing material from an area depends on the building owner's preference, i.e., for removal or containment. Owners consider such factors as cost effectiveness, the physical configuration of the work area, and the amount of traffic in the area when determining which abatement method to use.

If the owner chooses to enclose the structure rather than to remove the asbestos-containing material insulating it, a solid structure (airtight walls and ceilings) must be built around the asbestos covered pipe or structure to prevent the release of asbestos-containing materials into the area beyond the enclosure and to prevent disturbing these materials by casual contact during future maintenance operations.

Such a permanent (i.e., for the life of the building) enclosure should be built of new construction materials and should be impact resistant and airtight. Enclosure walls should be made of tongue-and-groove boards, boards with spine joints, or gypsum boards having taped seams. The underlying structure must be able to support the weight of the enclosure. (Suspended ceilings with laid in panels do not provide airtight enclosures and should not be used to enclose structures covered with asbestos-containing materials.) All joints between the walls and ceiling of the enclosure should be caulked to prevent the escape of asbestos fibers. During the installation of enclosures, tools that are used (such as drills or rivet tools) should be equipped with HEPA-filtered vacuums. Before constructing the enclosure, all electrical conduits, telephone lines, recessed lights, and pipes in the area to be enclosed should be moved to ensure that the enclosure will not have to be reopened later for routine or emergency maintenance. If such lights or other equipment cannot be moved to a new location for logistic reasons, or if moving them will disturb the asbestos-containing materials, removal rather than enclosure of the asbestos-containing materials is the appropriate control method to use.

(9) Maintenance program. An asbestos maintenance program must be initiated in all facilities that have asbestos-containing materials. Such a program should include:

Development of an inventory of all asbestos-containing materials in the facility;

Periodic examination of all asbestos-containing materials to detect deterioration;

Written procedures for handling asbestos materials during the performance of small-scale, short-duration maintenance and renovation activities;

Written procedures for asbestos disposal; and

Written procedures for dealing with asbestos-related emergencies.

Members of the building's maintenance engineering staff (electricians, heating/air conditioning engineers, plumbers, etc.) who may be required to handle asbestos-containing materials should be trained in safe procedures. Such training should include at a minimum:

Information regarding types of asbestos and its various uses and forms;

Information on the health effects associated with asbestos exposure;

Descriptions of the proper methods of handling asbestos-containing materials; and

Information on the use of HEPA-equipped dual cartridge respiratory and other personal protection during maintenance activities.

(10) Prohibited activities. The training program for the maintenance engineering staff should describe methods of handling asbestos-containing materials as well as routine maintenance activities that are prohibited when asbestos-containing materials are involved. For example, maintenance staff employees should be instructed:

Not to drill holes in asbestos-containing materials;

Not to hang plants or pictures on structures covered with asbestos-containing materials;

Not to sand asbestos-containing floor tile;

Not to damage asbestos-containing materials while moving furniture or other objects;

Not to install curtains, drapes, or dividers in such a way that they damage asbestos-containing materials;

Not to dust floors, ceilings, moldings or other surfaces in asbestos-contaminated environments with a dry brush or sweep with a dry broom;

Not to use an ordinary vacuum to clean up asbestos-containing debris;

Not to remove ceiling tiles below asbestos-containing materials without wearing the proper respiratory protection, clearing the area of other people, and observing asbestos removal waste disposal procedures;

Not to remove ventilation system filters dry, and

Not to shake ventilation system filters.

* Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

1 Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

AMENDATORY SECTION (Amending Order 85-30, filed 10/22/85)

WAC 296-65-001 **PURPOSE AND SCOPE.** This standard regulates asbestos removal and encapsulation, requires ~~((minimum training for asbestos workers and establishes a training certification and notification program for asbestos projects))~~ contractor certification, specifies minimum training for supervisors and workers on asbestos projects, requires notification of asbestos projects, and establishes a training course approval program. This standard applies to the removal or encapsulation of any asbestos containing material with the exception of those materials containing less than one percent asbestos by volume.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-65-003 **DEFINITIONS.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this ~~((chapter))~~ standard.

(1) "Approved" means approved by the department.

(2) "Asbestos" includes different forms of chrysotile, amosite, crocidolite, tremolite, anthophyllite and actinolite.

(3) "Asbestos fiber" means asbestos fiber as defined in WAC 296-62-07703.

(4) "Asbestos project" includes the construction, demolition, repair, remodeling, maintenance or renovation of any public or private building or structure, mechanical piping equipment or system involving the demolition, removal, encapsulation, salvage, or disposal of material or outdoor activity releasing or likely to release asbestos fibers into the air. Removal of vinyl asbestos tile (VAT), and asphaltic roofing materials is excluded from this definition, unless these items are removed by mechanical methods such as chipping, grinding, sanding, or sawing. Also excluded is any project in which there is a disturbance of asbestos of less than one square foot of total surface area of asbestos containing material (ACM), but this latter exclusion does not pertain to any disturbance of asbestos during a project dealing with pipe insulation.

(5) ~~(("Auxiliary project" means a work activity which does not directly involve an asbestos project but which may disturb or expose asbestos or asbestos-containing materials.~~

~~((6))~~ "Certified asbestos contractor" means any partnership, firm, association, corporation or sole proprietorship, registered under chapter 18.27 RCW, that submits a bid, or contracts to remove or encapsulate asbestos for another, and is certified by the department to remove or encapsulate asbestos.

~~((6))~~ "Certificate" means ((the)) a certificate issued by the department.

~~((7))~~ "Certified asbestos supervisor" means an individual who is certified by the department under WAC 296-65-012.

~~((8))~~ "Certified asbestos worker" means an individual ((who has successfully completed an approved asbestos training course and has received the certificate.

~~((8))~~ "Contractor" includes any partnership, firm, association, corporation or sole proprietorship that contracts to perform the removal or encapsulation of asbestos)) certified by the department under WAC 296-65-010.

~~((9))~~ "Department" means the department of labor and industries.

~~((10))~~ "Demolition" means the activity of razing a structure which includes the wrecking ((or)), removal, or dismantling of any load-supporting structural member of ((a)) any facility including any related handling operations.

~~((11))~~ "Direct on-site supervision" means the supervision of no more than three workers by a certified asbestos ((worker)) supervisor who is physically present at all times at the asbestos project. It includes the authority to immediately correct any deficiencies on the project.

~~((12))~~ "Director" means the director of the department of labor and industries or the director's designee.

~~((13))~~ "Emergency project" means a project that was not planned but results from a sudden unexpected event and includes operations which are necessitated by non-routine failures of equipment or systems.

~~((14))~~ "Encapsulation" means the application of an encapsulant to asbestos containing materials to control the release of asbestos fibers into the air. The ((encapsulant)) encapsulation process either creates a membrane over the surface (bridging encapsulant), or penetrates the material and binds its components together (penetrating encapsulant).

~~((15))~~ "HEPA filtration" means high efficiency particulate air filtration found in respirators and vacuum systems capable of filtering 0.3 micron particles with 99.97% efficiency.

~~((16))~~ "NESHAP" means the National Emission Standards for Hazardous Air Pollutants.

~~((17))~~ "Owner" means the person who owns any public or private building, structure, facility, or mechanical system, or the remnants thereof, or the agent of such person, but does not include individuals who work on asbestos projects in their own single-family residences, no part of which is used for commercial purposes.

~~((18))~~ "Person" means any individual, partnership, firm, association, corporation, sole proprietorship, or the state of Washington or its political subdivisions.

~~((16) "Removal" includes the stripping of any asbestos containing materials from the surface or components of a facility.~~

~~(17) "Renovation" includes altering in any way one or more facility components. Operations in which load-supporting structural members are wrecked or removed are excluded.~~

~~(18) "Repair" includes the restoration of asbestos containing insulation that has been damaged, usually located on pipes, boilers, tanks, turbines, ducts or other facility components. Repair usually consists of the application of duct tape, rewettable glass cloth, canvas, cement or other suitable material to seal exposed areas where asbestos fibers may be released. Repair of previously encapsulated asbestos containing materials may involve filling damaged areas with nonasbestos substitutes and reencapsulating. Repair of enclosures around asbestos containing materials is contemplated by this term.~~

~~(19) "Structural component" includes any pipe, duct, boiler, tank, reactor, turbine or furnace at or in a facility or any structural member of a facility.~~

~~(20) "Structural member" means any load-supporting or non-load-supporting member of a facility such as beams, walls, and ceilings.~~

~~(21) "Structure" means an entire facility, building or major portion thereof, such as a building wing.))~~

(19) "Revocation" means a permanent withdrawal of a certification issued by the department.

(20) "Suspension" means a temporary withdrawal of a certification issued by the department. No suspension shall be less than six months or longer than one year.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-65-005 ASBESTOS WORKER TRAINING COURSE CONTENT. An approved ((basic)) asbestos worker training course shall consist of at least thirty hours of training. ((The)) This initial training course shall provide, at a minimum, information on the following topics:

(1) The physical characteristics of asbestos including types, fiber size, aerodynamic characteristics and physical appearance.

(2) Examples of different types of asbestos and asbestos containing materials. Real asbestos shall be used only for observation by trainees and shall be enclosed in sealed unbreakable containers.

(3) The health hazards of asbestos including the nature of asbestos related diseases, routes of exposure, dose-response relationships, synergism between cigarette smoking and asbestos exposure, latency period of diseases, hazards to immediate family, and the health basis for asbestos standards.

(4) Employee personal protective equipment including the classes and characteristics of respirator types, limitations of respirators, proper selection, inspection, donning, use, maintenance and storage procedure, methods for field checking of the facepiece-to-face seal (positive and negative pressure checks), qualitative and quantitative fit testing procedures, variability between field and laboratory protection factors, factors that alter

respirator fit (e.g., eye glasses and facial hair), the components of a proper respiratory protection program, respirator program administrator, requirements on oil lubricated reciprocating piston compressors for breathing air, and selection and use of personal protective clothing. Qualitative or quantitative fit testing shall be performed on at least one student for demonstration purposes, and in accordance with WAC 296-62-07715 and 296-62-07739.

(5) Use, storage and handling of launderable clothing, nonslip footwear, gloves, eye protection and hard hats.

(6) Medical monitoring procedures and requirements, including the provisions of WAC 296-62-071 through 296-62-07121 and 296-62-07725, any additional recommended procedures and tests, benefits of medical monitoring and employee access to records.

(7) Air monitoring procedures and requirements specified in WAC 296-62-07709, including a description of equipment, sampling methods and strategies, reasons for air monitoring, types of samples, including area, personal and clearance samples, current standards with proposed changes if any, employee observation and notification, recordkeeping and employee access to records, interpretation of air monitoring results, and analytical methods for bulk and air samples.

(8) State-of-the-art work practices for asbestos removal and encapsulation activities including purpose, proper construction and maintenance of barriers and decontamination enclosure systems, posting of warning signs, electrical and ventilation system lock-out, proper working techniques and tools with vacuum attachments for minimizing fiber release, use of wet methods and surfactants, use of negative pressure ventilation equipment for minimizing employee exposure to asbestos fibers and contamination prevention, scoring and breaking techniques for rigid asbestos products, glove bag techniques, use of HEPA vacuums and proper clean-up and disposal procedures. Work practice requirements for removal, encapsulation, enclosure ~~((and))~~, repair, and waste transportation shall be discussed individually. Appropriate work practices for both indoor and outdoor asbestos projects shall be included.

(9) Personal hygiene including entry and exit procedures for the work area, use of showers and prohibition of eating, drinking, smoking and chewing (gum or tobacco) in the work area.

(10) Additional safety hazards that may be encountered during asbestos removal and encapsulation activities and hazard abatement, including electrical hazards, scaffold and ladder hazards, slips, trips and falls, confined spaces, noise, and heat stress.

(11) The requirements, procedures and standards established by:

(a) The Environmental Protection Agency, 40 CFR Part 61, Subparts A and M.

(b) Washington state department of ecology.

(c) Local air pollution control agencies.

(d) Washington state department of labor and industries, division of industrial safety and health, chapter 49.17 RCW (Washington Industrial Safety and Health Act), chapter 49.17 RCW (Health and safety—Asbestos), and ensuing regulations.

(12) Actual worksite considerations.

(13) The instruction required by this section shall include, at a minimum, hands-on training for the following:

(a) Glove bag techniques;

(b) The opportunity to don respirators including half facepiece and full facepiece air purifying respirators, powered air purifying respirators (PAPR), and Type-C supplied-air respirators (~~(-Qualitative or quantitative fit testing shall be performed on each student in accordance with WAC 296-62-07715 and 296-62-07739));~~);

(c) Removal (~~and repair~~) of sprayed-on (~~materi-~~at,) or troweled-on material, and pipe lagging;

(d) Basic construction of a decontamination unit, and proper entry and exit;

(e) Suit-up in protective clothing consisting of coveralls, foot coverings and head coverings.

(14) Asbestos containing materials shall not be used for hands-on training.

(15) In recognition that asbestos abatement is an evolving industry, the department reserves the right to require additional subjects to be taught and to specify the amount of time which shall be allotted to adequately cover required subjects. To assure adequate coverage of required material, each sponsor shall be provided and required to incorporate into their training course, a detailed outline of subject matter developed by the department.

NEW SECTION

WAC 296-65-007 ASBESTOS SUPERVISOR TRAINING COURSE CONTENT. An approved asbestos supervisor training course shall consist of at least thirty hours of training. This initial training course shall include lectures, demonstrations, at least six hours of hands-on training, course review and a written examination. Audio-visual materials, where appropriate, are recommended to complement lectures. The training course shall provide, at a minimum, information on the following topics:

(1) The physical characteristics of asbestos, and asbestos containing materials including identification of asbestos, aerodynamic characteristics, typical uses, physical appearance, hazard assessment considerations, and a summary of abatement control options.

(2) Health effects related to asbestos exposure including the nature of asbestos related diseases, routes of exposure, dose-response relationships and the lack of a safe level of exposure, synergism between asbestos exposure and cigarette smoking, latency period, hazards to the immediate family and the health basis for the standard.

(3) Employee personal protective equipment including the classes and characteristics of respirator types, limitations of respirators, proper selection, inspection, donning, use, maintenance, and storage procedures, methods for field checking of the facepiece-to-face seal (positive and negative pressure checks), variability between field and laboratory protection factors, quantitative and qualitative fit test requirements, factors that alter respirator fit (facial hair, scars, etc.), the components

of a proper respirator program, requirements for oil lubricated reciprocating compressors, maintenance of Type "C" systems, standards for breathing air, selection and use of personal protective clothing, use, storage, and handling of nondisposable clothing, and regulations covering personal protective equipment.

(4) State-of-the-art work practices for asbestos removal and encapsulation activities including purpose, proper construction and maintenance of barriers and decontamination enclosure systems, posting of warning signs, electrical and ventilation system lock-out, proper working techniques and tools with vacuum attachments for minimizing fiber release, use of wet methods and surfactants, use of negative pressure ventilation equipment for minimizing employee exposure to asbestos fibers and contamination prevention, scoring and breaking techniques for rigid asbestos products, glove bag techniques, use of HEPA vacuums and proper clean-up and disposal procedures. Work practice requirements for removal, encapsulation, and repair shall be discussed separately. Appropriate work practices for both indoor and outdoor asbestos projects shall be included.

(5) Personal hygiene including entry and exit procedures for the work area, use of showers and prohibition of eating, drinking, smoking, and chewing (gum and tobacco) in the work area. Potential exposures, such as family exposure shall also be included.

(6) Additional safety hazards that may be encountered during asbestos abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, scaffold and ladder hazards, slips, trips, and falls, confined space entry requirements, and noise hazards.

(7) Medical monitoring procedures and requirements, including the provisions of WAC 296-62-071 through 296-62-07121 and 296-62-07725, any additional recommended procedures and tests, benefits of medical monitoring and recordkeeping requirements.

(8) Air monitoring procedures and requirements specified in WAC 296-62-07709, including a description of equipment, sampling methods and strategies, reasons for air monitoring, types of samples, including area, personal and clearance samples, a description of aggressive sampling, current standards with proposed changes if any, employee observation and notification, recordkeeping, interpretation of air monitoring results, specifically from analyses performed by polarized light, phase contrast, and electron microscopy.

(9) The requirements, procedures, and standards established by:

(a) The Environmental Protection Agency, 40 CFR Part 61, Subparts A and M.

(b) The Washington state department of ecology.

(c) Local air pollution control agencies.

(d) Washington state department of labor and industries, division of industrial safety and health, chapter 49.17 RCW (Washington Industrial Safety and Health Act), chapter 49.26 RCW (Health and safety—Asbestos), and ensuing regulations.

(10) Actual worksite considerations.

(11) Insurance and liability issues including contractor issues, industrial insurance coverage and exclusions, third party liabilities and defenses, private insurance coverage and exclusions, recordkeeping recommended for legal and insurance purposes.

(12) Supervisory techniques for asbestos abatement projects including supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices.

(13) Contract specifications including a discussion of the key elements to be included in contract specifications.

(14) Hands-on training for the following:

(a) Calibration of air-sampling equipment;

(b) Routine maintenance of air-purifying and air-supplied respirators;

(c) Setup of a decontamination unit including calculating the number of negative air machines needed as well as proper placement of the machines within the enclosure; and

(d) Quantitative and qualitative fit-testing protocols.

(15) In recognition that asbestos abatement is an evolving industry, the department reserves the right to require additional subjects to be taught and to specify the amount of time which shall be allotted to adequately cover required subjects. To assure adequate coverage of required material, each sponsor shall be provided and required to incorporate into their training course, a detailed outline of subject matter developed by the department.

AMENDATORY SECTION (Amending Order 85-30, filed 10/22/85)

WAC 296-65-010 ASBESTOS WORKER CERTIFICATION. (1) For the purposes of this section "individual" means any natural person.

(2) ~~((Individuals shall pass, in a manner approved by the department, a written examination relevant to the safe performance of asbestos related activities.~~

(a) Upon successful completion of an approved training course the department will issue a certificate.

(b) To be considered timely, an application for an asbestos worker certificate must be received by the department no later than 60 days after the completion date of an approved training course)) To qualify for an asbestos worker certificate, an individual must do the following:

(a) Successfully complete an approved asbestos worker training course;

(b) Achieve a score of at least seventy percent on a one hundred question multiple choice examination approved by the department but administered by the training course sponsor;

(c) Submit to the department a timely application validated by an approved training course sponsor. To be considered timely, an application must be received by the department not later than sixty days after the completion of the course. In the event that an application is not timely, the individual shall be required to pass, with a score of at least seventy percent, an examination administered by the department. A nonrefundable fifty dollar assessment shall be charged to take this examination; and

(d) Pay the fee prescribed in WAC 296-65-025.

~~(3) Individuals shall not perform any asbestos ((project)) abatement work prior to issuance of the certificate.~~

~~((The)) (4) Certificates shall be issued and mailed to the individual applicants and shall be valid for ((two)) one year((s)) from the date of issuance.~~

~~((4)) (5) Certified asbestos workers shall attend a ((7)) seven-hour refresher course prior to certificate renewal.~~

(a) The course shall, at a minimum, adequately review the subjects required by WAC 296-65-005, update information on state-of-the-art procedures and equipment, and review regulatory changes and interpretations. Specific subjects may be required by the department.

(b) An application for renewal of the certificate must be ~~((accompanied by proof of attendance in an approved))~~ validated by the refresher training course instructor.

~~(c) ((To be considered timely, the certificate renewal application must be received by the department no later than 60 days after the certificate expiration date)) The refresher course must be taken prior to expiration of the certificate, but may not be taken more than sixty days prior to expiration of the original or current certificate.~~

(d) The certificate renewal application must be received by the department no later than the expiration date of the current certificate. Applicants missing this renewal deadline shall be required to pass, with a score of seventy percent, an examination administered by the department. A nonrefundable fifty dollar fee will be charged to take this examination.

(e) Individuals whose certificates have been expired for more than six months will be required to retake the entire thirty-hour basic course.

~~((5)) (6) The certificate shall be available for inspection at all times during an asbestos project.~~

~~((6)) (7) The department may suspend or revoke a certificate ((for failure of the holder to comply with any applicable health or safety standards)) as provided in WAC 296-65-050 and chapter 296-350 WAC.~~

NEW SECTION

WAC 296-65-012 ASBESTOS SUPERVISOR CERTIFICATION. (1) For the purposes of this section, "individual" means any natural person.

(2) To qualify for an asbestos supervisor certificate, an individual must do the following:

(a) Be a certified asbestos worker as prescribed in WAC 296-65-010 for at least one year;

(b) Successfully complete an approved asbestos supervisor training course;

(c) Achieve a score of at least seventy percent on a one hundred question multiple choice examination approved by the department but administered by the training course sponsor;

(d) Submit to the department a timely application validated by an approved training course sponsor. To be considered timely, an application must be received by the department not later than sixty days after the completion of the course. In the event that an application is not timely, the individual shall be required to pass, with

a score of at least seventy percent, an examination administered by the department. A nonrefundable fifty dollar assessment shall be charged to take this examination; and

(e) Pay the fee prescribed in WAC 296-65-025.

(3) Individuals shall not supervise any asbestos abatement work prior to issuance of the certificate.

(4) Certificates shall be issued and mailed to the individual applicants and shall be valid for one year from the date of issuance.

(5) Certified asbestos supervisors shall attend a seven-hour supervisor refresher course prior to certificate renewal. It shall not be necessary to also take a worker refresher course.

(a) The course shall, at a minimum, adequately review the subjects required by WAC 296-65-007, update information on state-of-the-art procedures and equipment, and review regulatory changes and interpretations. Specific subjects may be required by the department.

(b) An application for renewal of the certificate must be validated by the refresher training course instructor.

(c) The refresher course must be taken prior to expiration of the certificate, but may not be taken more than sixty days prior to expiration of the original or current certificate.

(d) The certificate renewal application must be received by the department no later than the expiration date of the current certificate. Applicants missing this renewal deadline shall be required to pass, with a score of seventy percent, an examination administered by the department. A nonrefundable fifty dollar fee will be charged to take this examination.

(e) Individuals whose certificates have been expired for more than six months will be required to retake the entire thirty-hour basic course.

(6) The certificate shall be available for inspection at all times during an asbestos project.

(7) The department may suspend or revoke a certificate as provided in WAC 296-65-050 and chapter 296-350 WAC.

(8) Individuals who have completed the "competent person" training previously recognized by the department after January 1, 1987, need not comply with the requirements set forth in subsection (2) of this section and shall be issued asbestos supervisor certificates provided the following conditions are met:

(a) Be a certified asbestos worker as prescribed in WAC 296-65-010 for at least one year,

(b) Provide documentation of successful completion of a recognized "competent person" training course,

(c) Pass, with a score of at least seventy percent, an examination administered by the department. A nonrefundable fifty dollar assessment shall be charged to take this examination; and

(d) This subsection shall expire on June 30, 1990. Thereafter any individual who has completed "competent person" training shall obtain an asbestos supervisor certificate by complying with the requirements set forth in subsection (2) of this section.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-65-015 TRAINING COURSE (~~CERTIFICATION~~) APPROVAL. (1) Basic and refresher asbestos training courses may be (~~provided~~) sponsored by any individual, person, (~~environmental health consulting firm, union, trade association, educational institution, public health organization, individual, governmental agency,~~) or other entity having department approval.

~~((1))~~ (2) Prior to receiving department approval, each course shall be evaluated by the department for the breadth of knowledge and experience required to properly train asbestos workers or supervisors. Course content shall be carefully scrutinized for adequacy and accuracy. Training techniques will be evaluated by the department.

~~((2))~~ (3) Sponsors of basic and refresher training courses proposed for approval must submit:

(a) Background information about course sponsors;

(b) Course locations and fees;

(c) Copies of course handouts;

(d) A detailed description of course content and the amount of time allotted to each major topic;

(e) A description of teaching methods to be utilized and a list of all audio-visual materials; the department may, in its discretion, request that copies of the materials be provided for review. Any audio-visual materials provided to the department will be returned to the applicant;

(f) A list of all personnel involved in course preparation and presentation and a description of the background, special training and qualifications of each. The department may, in its discretion, require proposed instructors to pass an examination on subjects related to their respective topics of instruction;

(g) A description of student evaluation methods and a copy of the required written examination including the scoring methodology to be used in grading the examination;

(h) A description of course evaluation methods; and

(i) Any restrictions on attendance (language, class size, affiliation, etc.).

~~((3))~~ (4) Application for training course approval and course materials shall be submitted to the department at least (~~forty-five~~) sixty days prior to the requested approval date. Materials may be mailed to:

Asbestos Certification Program

Department of Labor and

Industries, HC-412

805 Plum Street S.E.

P.O. Box 207

Olympia, Washington 98504

~~((4))~~ ~~Upon~~ (5) The decision to grant or renew approval of a basic or refresher asbestos training course ~~(;) shall be in the sole discretion of the department ((will issue the course sponsor a certificate. The certificate is valid for one year from the date of issuance. Application for renewal must follow the procedures described in subsections (2) and (3) of this section)).~~

Following approval of a basic or refresher asbestos training course, the department will issue the course sponsor an approval which is valid for one year from the date of issuance. Application for renewal must follow the procedures described in subsections (3) and (4) of this section.

Following approval of a basic or refresher asbestos training course, in recognition that asbestos abatement is an evolving industry, the department reserves the right to require additional subjects to be taught and to specify the amount of time which shall be allotted to adequately cover required subjects. To assure adequate coverage of required material, each sponsor shall be provided and required to incorporate into their training course, a detailed outline of subject matter developed by the department.

~~((5))~~ (6) To be considered timely, the training course ~~((certificate))~~ approval renewal must be received by the department no later than ~~((sixty))~~ thirty days ~~((after))~~ before the certificate expiration date.

~~((6))~~ (7) Any changes to a training course must be approved by the department in advance.

~~((7))~~ (8) The course sponsor shall provide the department with a list of all persons who have completed a basic or refresher training course. The list must be provided no later than ten days after a course is completed and must include the name and address of each trainee.

~~((8))~~ (9) The course sponsor must notify the department, in writing, at least ~~((one week))~~ thirty days before a training course is scheduled to begin. The notification must include the date, time and address where the training will be conducted.

~~((9))~~ (10) A representative of the department may, at the department's discretion, attend a training course as an observer to verify that the training course is conducted in accordance with the program approved by the department.

~~((10))~~ ~~The department may suspend or revoke the certification of a training course if its sponsor fails to maintain the course content and quality as initially approved.~~

(11) Course sponsors conducting training outside of the state of Washington shall reimburse the department for reasonable travel expenses associated with department audits of the training courses. Reasonable travel expenses are defined as current state of Washington per diem and travel allowance rates including airfare and/or surface transportation rates. Such reimbursement shall be paid within thirty days of receipt of the billing notice.

(12) The training course sponsor shall limit each class to a maximum of thirty participants.

~~((12))~~ (13) The instructor to student ratio shall not exceed one-to-ten for any of the training required by WAC 296-65-005(13).

(14) The department may terminate the training course approval, if in the department's judgment the sponsor fails to maintain the course content and quality as initially approved, or fails to make changes to a course as required by WAC 296-65-015(5).

Any "notice of termination of training course approval" issued by the department may act as an order of immediate restraint as described by RCW 49.17.130.

NEW SECTION

WAC 296-65-017 CONTRACTOR CERTIFICATION. (1) In order to obtain certification, an asbestos contractor must submit an application to the department. The application shall provide the following information:

(a) A list of asbestos projects conducted by the contractor during the previous twelve months. Such list shall include for each project:

(i) Project name;

(ii) Location;

(iii) Brief description;

(iv) Identity of any citations or enforcement actions issued for violations of asbestos regulations by any local, state, or federal jurisdiction relative to each individual project; and

(v) Name of the on-site project manager or supervisor.

(b) A list of asbestos supervisors (include certification number) working for the company.

(c) A statement certifying that the contractor has read and understands all applicable Washington state rules and regulations regarding asbestos abatement and will comply with them.

(d) A statement certifying that the applicant contractor's asbestos license or accreditation issued by any other state or jurisdiction has not been revoked, suspended, or denied by that state or jurisdiction.

(2) Upon approval, the department will issue the contractor a certificate. Denial of approval shall be in writing.

(3) Certificates shall be valid for a period of twelve months. Certificates may be extended during department review of a renewal application.

Note: In circumstances where it is necessary to coordinate an expiration date with the date of expiration of a contractor registration issued under chapter 18.27 RCW, certificates may be valid for less than one year. In such circumstances, the certificate fee prescribed in WAC 296-65-025 shall be prorated accordingly.

(4) The application for certificate renewal shall contain the information specified in subsection (1) of this section.

(5) Applications for renewal must be received by the department not less than sixty days before the certificate expires.

(6) The department may suspend or revoke the certificate as provided in WAC 296-65-050 and chapter 296-350 WAC.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-65-020 NOTIFICATION REQUIREMENTS. ~~((A copy of any notice of intention to demolish or renovate a facility required to be filed with a federal, state, or local air pollution control agency shall be sent directly to the department by each person whose employees, if any, are renovating or demolishing any structure. Notices must be received within the same time~~

periods required by the federal, state, or local agency and may be mailed to:

Asbestos Certification Program
Department of Labor and
Industries, HC-412
805 Plum Street S.E.
P.O. Box 207
Olympia, Washington 98504.)

(1) Before any person or individual begins an asbestos project involving more than forty-eight square feet or ten linear feet, unless the surface area of the pipe is greater than forty-eight square feet, of asbestos containing material, written notification shall be provided to the department. Notices shall include:

- (a) Name and address of the owner and contractor.
- (b) Description of the facility including size, age, and prior use of the facility.
- (c) Amount of asbestos containing material to be removed or encapsulated.
- (d) Location of the facility.
- (e) Exact starting and completion dates of the asbestos project, including shifts during which abatement work will be accomplished. These dates must correspond to the dates specified in the contract. Any change in these dates or work shifts shall be communicated to the department by an amended notice.

(f) Nature of the project and methods used to remove or encapsulate the material.

(2) Failure to provide such notification will result in the loss of the exemption specified in WAC 296-65-030.

(3) Notices must be received by the department no later than ten days prior to the start of the project. Notices shall be sent directly to the department of labor and industries regional office having jurisdiction on the project.

(4) The director may waive the prenotification requirement upon written request of an owner for large-scale, on-going projects. In granting such a waiver, the director shall require the owner to provide prenotification if significant changes in personnel, methodologies, equipment, work site, or work procedures occur or are likely to occur. The director shall further require annual resubmittal of such notification.

(5) The director, upon review of an owner's reports, work practices, or other data available as a result of inspections, audits, or other authorized activities, may reduce the size threshold for prenotification required by this section. Such a change shall be based on the director's determination that significant problems in personnel, methodologies, equipment, work site, or work procedures are creating the potential for violations of this chapter.

(6) Emergency projects which disturb or release asbestos into the air shall be reported to the department within three working days after commencement of the project in the manner otherwise required under this chapter. The employees, the employees' collective bargaining representative or employee representative, if any, and other persons at the project area shall be notified of the emergency as soon as possible by the person undertaking the emergency project. A notice describing the

nature of the emergency project shall be clearly posted adjacent to the work area.

(7) Incremental phasing in the conduct or design of asbestos projects or otherwise conducting or designing asbestos projects of a size less than the threshold exemption specified in subsection (1) of this section, with the intent of avoiding the notification requirements, is a violation of this chapter.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-65-025 ((CERTIFICATE)) FEES. (1) A nonrefundable administrative fee of twenty-five dollars shall be assessed for each initial or renewal asbestos worker certificate application. The fee (check or money order) must accompany the certificate application and be made payable to the department. An application form may be obtained from any approved training course instructor or directly from the department.

(2) A nonrefundable administrative fee of ((one hundred fifty)) thirty-five dollars shall be assessed for each initial or renewal ((application for training course approval. A check or money order shall accompany any application made under the provisions of WAC 296-65-015 and be made payable to the department.)) asbestos supervisor certificate application. The fee (check or money order) must accompany the certificate application and be made payable to the department. An application form may be obtained from any approved training course instructor or directly from the department.

(3) A nonrefundable administrative fee of one thousand dollars shall be assessed for each initial or renewal contractor certificate application. The fee (check or money order) must accompany the certificate application and be made payable to the department. An application form may be obtained from the department.

Note: In circumstances where it is necessary to coordinate an expiration date with the date of expiration of a contractor registration issued under chapter 18.27 RCW, certificates may be valid for less than one year. In such circumstances, the certificate fee prescribed in WAC 296-65-025 shall be prorated accordingly.

(4) A nonrefundable administrative fee of one thousand dollars shall be assessed for each initial and renewal application for training course approval. A check or money order shall accompany any application made under the provisions of WAC 296-65-015.

AMENDATORY SECTION (Amending Order 87-06, filed 4/27/87)

WAC 296-65-030 METHODS OF COMPLIANCE. (1) ((No contractor, employee, or other individual is eligible to work on an asbestos project unless properly issued a certificate by the department, except in the case of an asbestos project undertaken by any partnership, firm, corporation or sole proprietorship in its own facility and by its own employees under the direct on-site supervision of a certified asbestos worker.

Note: This exception does not apply to the state of Washington or its political subdivisions.

~~(2) No person may assign any employee, contract with or permit any individual or person to remove or encapsulate asbestos in any facility unless performed by a certified asbestos worker except in the case of an asbestos project undertaken by any partnership, firm, corporation or sole proprietorship in its own facility and by its own employees under the direct on-site supervision of a certified asbestos worker.~~

~~Note:)) Before submitting a bid or working on an asbestos abatement project, any person or individual shall obtain an asbestos contractor certificate as provided in WAC 296-65-017 and shall have in its employ at least one certified asbestos supervisor responsible for supervising all asbestos projects undertaken by the contractor.~~

~~(2) A certified asbestos supervisor will not be required on projects involving less than forty-eight square feet or ten linear feet of asbestos containing material unless the surface area of the pipe is greater than forty-eight square feet.~~

~~(3) No employee or other individual is eligible to do work or supervise an asbestos project without being issued a certificate by the department except, in the case of an asbestos project undertaken by any partnership, firm, association, corporation, or sole proprietorship, and conducted in its own facility, and by its own employees under the direct, on-site supervision of a certified asbestos supervisor. This exception does not apply to the state of Washington or its political subdivisions.~~

~~((3)-(a)) (4) No person may assign any employee, contract with, or permit any individual, to remove or encapsulate asbestos in any facility, without the project being performed by a certified asbestos worker and under the direct, on-site supervision of a certified asbestos supervisor, except, in the case of an asbestos project undertaken by any partnership, firm, association, corporation, or sole proprietorship, and conducted in its own facility and by its own employees under the direct, on-site supervision of a certified asbestos supervisor.~~

~~(5) Any partnership, firm, association, corporation, or sole proprietorship that begins any construction, renovation, remodeling, maintenance, repair, or demolition project without meeting the requirements of WAC 296-62-07707 and the notification requirements as provided in subsection (6) of this section, shall lose the exemptions provided in subsections (3) and (4) of this section.~~

~~(6) In cases excepted under subsections ((+)) (3) and ((2)) (4) of this section(, the partnership, firm, corporation or sole proprietorship shall annually submit a written description to the department which includes at least the following information):~~

~~(a) Direct on-site supervision by a certified asbestos supervisor shall be required for asbestos projects performed at one project location by workers who are not certified.~~

~~(b) If a project is conducted using only certified workers, or if a certified worker functions as a foreman or lead person, supervision can be performed in the regular course of a supervisor's duties and need not be direct and on-site.~~

~~(c) The partnership, firm, association, corporation, or sole proprietorship shall annually submit to the department, a written description which includes at least the following information:~~

~~(i) The kinds of asbestos projects expected to be undertaken during a period of time not to exceed one year from the date of submission;~~

~~(ii) The procedures to be used in undertaking the asbestos projects;~~

~~(iii) Methods of compliance with ((chapters 296-62, 296-65, and 296-155 WAC)) applicable department regulations;~~

~~(iv) Methods of compliance with any additional procedures required by law for the safe demolition, removal, encapsulation, salvage, and disposal of asbestos; ((and))~~

~~(v) A copy of the written inspection report or statement as required by WAC 296-62-07707; and~~

~~(vi) The name, address and certification number of the supervising certified asbestos ((worker)) supervisor.~~

~~((b)) (7) The written descriptions required ((b)) in this section shall be submitted to the department prior to ((commencement of work)) commencing any project described.~~

~~((4)) (8) A further written description must be submitted to the department prior to commencing a project, if previously unidentified or new asbestos projects are proposed during the one year period covered by the written description submitted to the department in accordance with ((WAC 296-65-030(3), previously unidentified or new asbestos projects are proposed)) subsection (6) of this section.~~

~~((5)) (9) Written descriptions, shall be mailed to:~~

Asbestos Certification Program,
Department of Labor and
Industries, HC-412
805 Plum Street S.E.
P.O. Box 207
Olympia, Washington 98504.

~~(10) In addition to losing the exemption in subsection (5) of this section, any partnership, firm, association, corporation, or sole proprietorship who fails to comply with subsections (6) through (9) of this section shall be subject to a mandatory fine of not less than two hundred fifty dollars for each violation. Each day the violation continues shall be considered a separate violation. In addition, any construction, renovation, remodeling, maintenance, repair, or demolition which was started without meeting the requirements of this section shall be halted immediately and cannot be resumed before meeting such requirements.~~

NEW SECTION

WAC 296-65-035 RECIPROCITY. (1) The department may recognize certifications issued by another state for asbestos workers or supervisors provided that:

(a) The worker is in possession of a currently valid certification from the other state; and

(b) The department evaluates the other state's qualification procedures and determines the certification to be equivalent to the minimum requirements of this chapter.

(2) When the department's evaluation of another state's qualification procedures identifies that equivalent requirements are met, the department is authorized to issue a Washington state certification upon receipt of a completed application.

(3) When the department's evaluation of another state's qualification procedures identifies deficiencies, the department may require specific supplemental training and/or examination before issuing a Washington state certification.

(4) Workers or supervisors certified by another state may renew their certification for a Washington certification by successfully completing a Washington state approved standard seven-hour refresher course and submitting application to the department in compliance with this chapter.

NEW SECTION

WAC 296-65-050 DENIAL, SUSPENSION, AND REVOCATION OF CERTIFICATES. (1) The department may deny, suspend, or revoke a certificate for failure of the holder to comply with any requirement of this chapter, or any applicable health and safety standards and regulations.

(2) In addition to any civil penalty imposed under WAC 296-62-07707 and 296-65-030, the department may suspend or revoke any certificate issued under this chapter for a period of not less than six months upon the following grounds:

(a) The certificate was obtained through error or fraud; or

(b) The holder thereof is judged to be incompetent to carry out the work for which the certificate was issued.

(3) Before any certificate may be denied, suspended, or revoked, the holder thereof shall be given written notice of the department's intention to do so, mailed by registered mail, return receipt requested, to the holder's last known address. The notice shall enumerate the allegations against such holder, and shall give him or her the opportunity to request a conference before the department. At such conference, the department and the holder shall have opportunity to produce witnesses and give testimony.

(4) A denial, suspension, or revocation order may be appealed to the board of industrial insurance appeals within fifteen working days after the denial, suspension, or revocation order is entered. The notice of appeal may be filed with the department or the board of industrial insurance appeals. The board of industrial insurance appeals shall hold the hearing in accordance with procedures established in RCW 49.17.140. Any party aggrieved by an order of the board of industrial insurance appeals may obtain superior court review in the manner provided in RCW 49.17.150.

WSR 89-14-101

NOTICE OF PUBLIC MEETINGS TRANSPORTATION IMPROVEMENT BOARD

[Memorandum—June 30, 1989]

JULY AND AUGUST 1989
TRANSPORTATION IMPROVEMENT BOARD
TRANSPORTATION BUILDING
OLYMPIA, WASHINGTON 98504

TIB Meeting, 9:30 a.m., Friday, July 21, 1989, at the Transportation Building, Olympia.

TIB board meeting for August 18, 1989, is cancelled.

TIB Meeting, 9:30 a.m., Friday, September 15, 1989, in Yakima (site to be determined).

WSR 89-14-102

PROPOSED RULES CHIROPRACTIC EXAMINING BOARD

[Filed July 3, 1989, 11:43 a.m.]

Original Notice.

Title of Rule: The regulation of chiropractic education and licensing.

Purpose: To revise the subject matter approved for continuing chiropractic education credit.

Other Identifying Information: Amends WAC 114-12-155.

Statutory Authority for Adoption: RCW 18.25.017.

Statute Being Implemented: RCW 18.25.017.

Summary: Proposed amendment would add chiropractic philosophy to the list of approved subjects.

Reasons Supporting Proposal: Chiropractic philosophy is an appropriate subject for continuing education.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Connie Glasgow, 1300 Quince Street S.E., Olympia, WA 98504, (206) 753-0776.

Name of Proponent: Chiropractic Examining Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Adding chiropractic philosophy to the list of approved subject matter would increase the options available for chiropractors choosing continuing education topics.

Proposal Changes the Following Existing Rules: Adds a new subject for continuing education courses to WAC 114-12-155.

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

Hearing Location: Sea-Tac Executel, 20717 Pacific Highway South, Seattle, WA 98188, on August 17, 1989, at 10:00 a.m.

Submit Written Comments to: Connie Glasgow, 1300 Quince Street S.E., Olympia, WA 98504, by August 16, 1989.

Date of Intended Adoption: August 17, 1989.

July 3, 1989
 John H. Keith
 Assistant Attorney General
 Board Counsel

AMENDATORY SECTION (Amending Order PL 582, filed 3/4/86)

WAC 114-12-155 BOARD APPROVED CONTINUING EDUCATION SUBJECT MATTER. (1) Licensed chiropractors will be responsible for obtaining 25 hours of board approved continuing education over the preceding three year period to be submitted with annual renewal of their license.

(2) The board approves the following subject material for continuing chiropractic education credit:

- (a) Diagnosis and treatment of the spine or immediate articulations within the scope of practice;
 - (b) X-ray/roentgenology;
 - (c) Adjustive technique;
 - (d) Detection of a subluxation;
 - (e) Physical examination;
 - (f) Hygiene;
 - (g) Symptomatology;
 - (h) Neurology;
 - (i) Spinal pathology;
 - (j) Spinal orthopedics;
 - (k) Patient/case management;
 - (l) Impairment within the scope of practice;
 - (m) CPR - once every three years; ((and;))
 - (n) Dietary advice; and,
 - (o) Chiropractic philosophy.
- (3) Subject matter not approved for continuing education credit:
- (a) Business management;
 - (b) Subject matter not directly relating to the chiropractic clinical scope of practice;
 - (c) Practice building; and,
 - (d) Conduct prohibited by Washington state statutes or rules governing chiropractic practice.

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

Proposal Changes the Following Existing Rules: Reduces licensing fee from \$650.00 to \$500.00.

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

Hearing Location: 4th Floor Conference Room, Highways-Licenses Building, Olympia, Washington 98504, on August 8, 1989, at 9:30 a.m.

Submit Written Comments to: Sherman Cox, Program Administrator, P.O. Box 9012, Olympia, Washington 98504, by 5:00 p.m., August 7, 1989.

Date of Intended Adoption: August 8, 1989.

July 3, 1989
 Linda M. Moran
 Assistant Attorney General

AMENDATORY SECTION (Amending Order PM 667, filed 8/27/87)

WAC 308-31-055 PODIATRY FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Application (examination and reexamination)	\$500.00
Reciprocity application	400.00
License renewal	((650.00)) 500.00
Late renewal penalty	10.00
Duplicate license	15.00
Certification	25.00

WSR 89-14-103
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed July 3, 1989, 11:46 a.m.]

WSR 89-14-104
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed July 3, 1989, 11:48 a.m.]

Original Notice.

Title of Rule: Amending WAC 308-31-055 Podiatry fees.

Purpose: Reduce the license fee from \$650.00 to \$500.00. A fee study indicates that the current fee for license renewals is in excess of the amount indicated in the study and continuing to charge the fee would constitute unnecessary prejudice and expense to licensees.

Statutory Authority for Adoption: RCW 43.24.086.

Statute Being Implemented: RCW 18.22.060.

Summary: Rule reduces the license renewal fee for podiatrists from \$650.00 to \$500.00.

Reasons Supporting Proposal: See above purpose.

Name of Agency Personnel Responsible for Drafting: John Swannack, Assistant Director, 1300 Quince Street, Olympia, WA, (206) 753-2241; Implementation and Enforcement: Sherman Cox, Program Administration, P.O. Box 9012, Olympia, WA, (206) 753-2205.

Name of Proponent: Department of Health, governmental.

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

Original Notice.

Title of Rule: Dietitians and nutritionists.

Purpose: To establish and/or clarify certification and renewal requirements for dietitians and nutritionists.

Statutory Authority for Adoption: RCW 18.138.070.

Statute Being Implemented: RCW 18.138.070.

Summary: Amending WAC 308-177-110 Dietitian and nutritionist fees, 308-177-120 Application requirements and 308-177-130 Nutritionists minimum core curriculum; repealing WAC 308-177-150 Continuing education; and new WAC 308-177-155 Definitions, 308-177-160 Examinations, 308-177-180 Foreign degree equivalency and 308-177-190 Certification for dietitians-Grandfathering.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Maria Gardipee, Program Assistant, 1300 Quince S.E., Olympia, WA, (206) 753-1230.

Name of Proponent: Department of Health, governmental.

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

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

Proposal Changes the Following Existing Rules: These rules are proposed to complement chapter 18.138 RCW.

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

Hearing Location: 4th Floor Training Room, Highways-Licenses Building, 12th and Franklin, Olympia, Washington 98504, on August 9, 1989, at 10:00 a.m.

Submit Written Comments to: Maria Gardipee, Program Assistant, 1300 Quince S.E., Olympia, Washington 98504, by 5:00 p.m., August 8, 1989.

Date of Intended Adoption: August 9, 1989.

July 3, 1989
 Martha A. French
 Assistant Attorney General

AMENDATORY SECTION (Amending Order PM 814, filed 1/11/89)

WAC 308-177-110 DIETITIAN AND NUTRITIONIST FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

title	fee
Application	\$75.00
Renewal	65.00
Late renewal	25.00
Certification	25.00
Duplicate	15.00
Reexamination	75.00

NEW SECTION

WAC 308-177-115 DEFINITIONS. (1) "Accredited college or university" means a college or university accredited by a national or regional accrediting body recognized by the council on postsecondary education at the time the applicant completed the required education.

(2) "Continuous preprofessional experience" means a minimum of 900 hours of supervised competency-based practice in the field of dietetics accumulated over a maximum of thirty-six months. This competency-based practice should include, but not be limited to the following:

- (a) Assuring that food service operations meet the food and nutrition needs of clients and target markets.
- (b) Utilization of food, nutrition, and social services in community programs.
- (c) Providing nutrition care through systematic assessment, planning, intervention, and evaluation of groups and individuals.
- (d) Providing nutrition counseling and education to individuals and groups for health promotion, health maintenance, and rehabilitation.
- (e) Applying current research information and methods to dietetic practice.
- (f) Utilizing computer and other technology in the practice of dietetics.
- (g) Integrating food and nutrition services in the health care delivery system.
- (h) Promoting positive relationships with others who impact on dietetic service.
- (i) Coordinating nutrition care with food service systems.
- (j) Participating in the management of cost-effective nutrition care systems.
- (k) Utilizing menu as the focal point for control of the food service system.
- (l) Participating in the management of food service systems, including procurement, food production, distribution, and service.
- (m) Participating in the management of human, financial, material, physical, and operational resources.
- (n) Providing education and training to other professionals and supportive personnel.
- (o) Engaging in activities that promote improved nutrition status of the public and advance the profession of dietetics.
- (p) Recognizing the impact of political, legislative, and economic factors on dietetic practice.
- (q) Utilizing effective communication skills in the practice of dietetics.

(r) Participating in the management of a quality assurance program.
 (3) "Supervision" means the oversight and responsibility for the dietitian's or nutritionist's continued practice by a qualified supervisor. Methods of supervision may include face-to-face conversations, direct observation, or review of written notes or tapes.

(4) "Qualified supervisor" means a dietitian who is certified under this chapter or who is qualified for certification under this chapter.

(5) "Coordinated undergraduate program" means supervised dietetic practice that is part of a course of study.

AMENDATORY SECTION (Amending Order PM 814, filed 1/11/89)

WAC 308-177-120 APPLICATION REQUIREMENTS. (1) Individuals applying for certification as a certified dietitian must submit:

- (a) A completed application form with fee;
- (b) Verification of AIDS education and training as set forth in WAC 308-177-100; and
- (c) Verification of current registration status with the commission on dietetic registration ~~(and)~~.

~~((c))~~ (2) Individuals applying for certification as a certified dietitian who have not passed the required written examination or who are not registered with the commission on dietetic registration must:

- (a) Provide transcripts forwarded directly from the issuing college or university showing completion of a baccalaureate degree or higher in a major course of study in human nutrition, foods and nutrition, dietetics, or food management;
- (b) Provide evidence of completion of a continuous preprofessional experience or coordinated undergraduate program in dietetics under the supervision of a qualified supervisor;
- (c) Take and pass the required written examination; and
- (d) Provide verification of AIDS education and training as set forth in WAC 308-177-100.

~~((2))~~ (3) Individuals applying for certification as a certified nutritionist must submit:

- (a) A completed application form with fee; and
- (b) ~~(Verification of current registration status with the commission on dietetic registration; or~~
- (c) ~~Verification of a master's or doctorate degree from a college or university accredited by a recognized regional accrediting agency;~~
- (d) ~~Documentation of completion of the coursework outlined in WAC 308-177-130; and~~
- (e) ~~Documentation that the applicant meets the application requirements for certified dietitians, as set forth in subsection (1) or (2) of this section; or~~

(c) Transcripts forwarded directly from the issuing college or university showing completion of a masters or doctorate degree in one of the following subject areas: Human nutrition, nutrition education, foods and nutrition, or public health nutrition; and

(d) Verification of AIDS education and training as set forth in WAC 308-177-100.

AMENDATORY SECTION (Amending Order PM 814, filed 1/11/89)

WAC 308-177-130 NUTRITIONIST MINIMUM CORE CURRICULUM. Training for certified nutritionist ~~((staff))~~ should include coursework at the collegiate level or equivalent in the following areas:

- (1) Basic science - Which ~~((staff))~~ should include courses in one or more of the following:
 - (a) Physiology.
 - (b) Biochemistry.
- (2) Foods - Which ~~((staff))~~ should include courses in one or more of the following:
 - (a) Selection.
 - (b) Composition.
 - (c) Food science.
 - (3) Nutritional science.
- (4) Applied nutrition - Which ~~((staff))~~ should include courses in one or more of the following:
 - (a) Diet therapy.
 - (b) Nutrition of the life cycle.
 - (c) Cultural/anthropological nutrition.
 - (d) Public health nutrition.
- (5) Counseling/education - Which ~~((staff))~~ should include courses in one or more of the following:

- (a) Psychological counseling.
- (b) Educational psychology.
- (c) Communication.
- (d) Psychology.
- (e) Education.

NEW SECTION

WAC 308-177-160 EXAMINATIONS. (1) A written examination will be given at least once annually to qualified applicants at a time and place determined by the director.

(2) Applications must be received sixty days in advance of the scheduled examination.

(3) Applicants who fail the examination shall submit the appropriate fee for reexamination.

NEW SECTION

WAC 308-177-180 FOREIGN DEGREE EQUIVALENCY. Applicants who obtained their education outside of the United States and its territories must have their academic degree(s) validated as substantially equivalent to the baccalaureate, master's, or doctorate degree conferred by a regionally accredited college or university recognized by the council on postsecondary education at the time the applicant completed the required degree.

NEW SECTION

WAC 308-177-190 CERTIFICATION FOR DIETITIANS—GRANDFATHERING. An individual may be certified as a certified dietitian if he or she provides evidence of meeting criteria for registration with the commission on dietetic registration on June 9, 1988, and provides documentation of completion of the AIDS education requirements as set forth in WAC 308-177-100.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-177-150 CONTINUING EDUCATION.

WSR 89-14-105
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed July 3, 1989, 4:30 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-025 Hunts authorized pursuant to RCW 77.12.240.

Purpose: To conform to provisions in RCW 77.12.240. Specifies the conditions for damage control permits, providing for more efficient administration of animal damage control hunts under that section.

Statutory Authority for Adoption: RCW 77.12.240.

Statute Being Implemented: RCW 77.12.240.

Summary: Extends ineligibility from one to two years for persons who fail to properly report animals taken under damage control permits. Makes failure to abide by condition of deer or elk damage permit a violation of RCW 77.16.020.

Reasons Supporting Proposal: Specifies the conditions for damage control permits; conforms to provisions in RCW 77.12.240.

Name of Agency Personnel Responsible for Drafting: Lee S. Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; Implementation and Enforcement: Dan Wyckoff, A.D. Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Department of Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Conforms to provisions in RCW 77.12.240 providing for more efficient administration of animal damage control hunts under that section.

Proposal Changes the Following Existing Rules: Conforms to provisions in RCW 77.12.240.

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

Hearing Location: Towne Plaza Motor Inn, North Seventh Street, Yakima, WA 98901, on August 12, 1989, at 8:00 a.m.

Submit Written Comments to: Administrative Regulations Officer, Washington Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, by August 9, 1989.

Date of Intended Adoption: August 12, 1989.

July 3, 1989

Lee S. Smith

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 241, filed 2/1/85)

WAC 232-12-025 ((HUNTS)) ANIMAL DAMAGE CONTROL AUTHORIZED PURSUANT TO RCW 77.12.240. Anyone participating in a director-authorized animal damage control ((hunt)) must conduct themselves in accordance with the following rules:

(1) Black bear

(a) No dogs are permitted out of the vehicle, including on a strikeboard, outside of the area designated ((hunting area)) on the permit. If the bear is ((started)) wounded inside a permit area, it may be pursued and killed outside the permit boundaries.

(b) When a bear is taken, the permittee shall skin the entire bear, including head, leaving claws attached, and deliver the hide, together with the gall bladder and the first tooth behind the canine tooth on the lower jaw to the appropriate regional office. All bear hides taken pursuant to a black bear damage permit shall be disposed of as prescribed ((in RCW 77.12.240)) by law.

(c) Within 5 days after expiration of a black bear permit, the permittee shall return to the respective region a bear hunting report and the windshield identification cards. Failure to comply with this provision shall ((constitute ineligibility)) disqualify the permittee from applying for ((the next year's)) a black bear damage control permit ((drawings)) for a period of two years.

(d) The permittee shall abide by all conditions as set forth on the black bear damage control permit. Failure to comply with these ((hunting)) conditions shall constitute a violation of RCW 77.16.020(1) (Hunting bear during closed season).

(2) Deer and elk.

(a) Only persons with a damage control permit are allowed to ((hunt and)) take one deer or one elk as designated on their damage control permit.

(b) If a ((hunter)) person takes an animal ((of the same species during an earlier hunt)) pursuant to a damage control permit, that person will be ineligible for a damage ((hunt)) control permit for that same species for the remainder of the calendar year.

(c) Deer and elk damage control ((hunts)) permits will be issued for antlerless animals only unless specified either sex on the damage control permit.

(d) The April 1 to June 30 time period will be excluded from damage control hunts.

(e) ((Permittees)) The permittee may ((hunt)) use the permit only within the prescribed area and ((season)) dates as specified on ((their)) the permit. If a deer or elk is wounded inside the ((damage hunt)) permit area, it may be pursued and taken outside permit boundaries.

(f) When an animal is taken, the permittee shall skin the entire animal and deliver the incisor tooth to the appropriate regional office. All deer or elk hides taken pursuant to a damage permit shall be disposed of as prescribed on the permit.

~~((f))~~ (g) Within five days after expiration of a deer or elk damage control permit, the permittee shall return to the respective region a deer/elk ~~((hunting))~~ harvest report. ~~((If an animal is taken, the permittee shall skin the entire animal and deliver the hide together with an incisor tooth to a regional game department office. All deer or elk hides taken pursuant to a damage permit shall be disposed of as prescribed in RCW 77.12.240.))~~ Failure to comply with this provision shall disqualify the permittee from applying for a ~~((constitute ineligibility for the next year's))~~ damage control permit ~~((drawings))~~ for a period of two years.

(d) The permittee shall abide by all conditions as set forth on the deer or elk damage control permit. Failure to comply with these conditions shall constitute a violation of RCW 77.16.020(1) (Hunting deer or elk during closed season).

WSR 89-14-106
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed July 3, 1989, 4:30 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-081 Checking stations—Inspection of game and licenses.

Purpose: To administratively implement RCW 77.12.620.

Statutory Authority for Adoption: RCW 77.12.620.

Statute Being Implemented: RCW 77.12.620.

Summary: Makes it unlawful to take evasive actions in order to avoid an established check station.

Reasons Supporting Proposal: To administratively implement RCW 77.12.620.

Name of Agency Personnel Responsible for Drafting: Lee S. Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; Implementation and Enforcement: Dan Wyckoff, A.D. Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Department of Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Makes it unlawful to take evasive actions in order to avoid an established check station. Will administratively implement RCW 77.12.620.

Proposal Changes the Following Existing Rules: Deletes language already contained in RCW.

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

Hearing Location: Towne Plaza Motor Inn, North Seventh Street, Yakima, WA 98901, on August 12, 1989, at 8:00 a.m.

Submit Written Comments to: Administrative Regulations Officer, Washington Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, by August 9, 1989.

Date of Intended Adoption: August 12, 1989.

July 3, 1989

Lee S. Smith

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 186, filed 7/12/82)

WAC 232-12-081 ~~((CHECKING))~~ WILDLIFE CHECK STATIONS — INSPECTION OF GAME AND LICENSES — STOPPING FOR INSPECTION. ~~((Hunters and fishermen))~~ It is unlawful

for any hunter or fisherman occupying a motor vehicle approaching or entering a check station established by a wildlife agent ~~((must stop and produce for inspection))~~ to:

(1) ~~((Wildlife in their possession))~~ Make a turn or stop in a motor vehicle to avoid inspection;

(2) ~~((Licenses, permits, tags, stamps or punchcards required under Title 77 RCW or rules adopted thereunder))~~ Operate a motor vehicle in a manner contrary to posted or temporary signs or the signals of a wildlife employee.

WSR 89-14-107
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed July 3, 1989, 4:36 p.m.]

Original Notice.

Title of Rule: Readopting WAC 232-12-001 Definition of terms.

Purpose: To conform this section to the provisions of HB 1772 (chapter 218, Laws of 1989), and to cure a procedural defect in Administrative Order 387, filed April 26, 1989.

Statutory Authority for Adoption: RCW 77.12.020 and 77.12.040.

Statute Being Implemented: RCW 77.12.020 and 77.12.040.

Summary: See above.

Reasons Supporting Proposal: See above.

Name of Agency Personnel Responsible for Drafting: Lee S. Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; Implementation: Patricia Doyle, A.D. Fisheries Management Division, Olympia, (206) 753-5713; and Enforcement: Dan Wyckoff, A.D. Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Department of Wildlife, governmental.

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

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

Proposal Changes the Following Existing Rules: See above.

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

Hearing Location: Towne Plaza Motor Inn, North Seventh Street, Yakima, WA 98901, on August 12, 1989, at 8:00 a.m.

Submit Written Comments to: Administrative Regulations Officer, Washington Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, by August 9, 1989.

Date of Intended Adoption: August 12, 1989.

July 3, 1989

Lee S. Smith

Administrative Regulations Officer

READOPTED SECTION (Readopting Order 387, filed 4/26/89)

WAC 232-12-001 DEFINITION OF TERMS. Definitions used in rules of the commission are defined in RCW 77.08.010. In addition, unless the context clearly requires otherwise:

(1) Snagging, gaffing, or spearing means: An effort to impale game fish in a part of its body other than its mouth by use of hooks or other devices.

(2) A valid license, permit, tag, stamp or punchcard means: A license, permit, tag, stamp, or punchcard that was issued to the bearer for the current season by the commission and is required to hunt, fish or possess wildlife and has not been altered except as provided by rule of the commission.

(3) Hook means: One single, double, or treble hook.

(4) Barbless hook means: A single, pointed hook from which all barbs have been filed off, pinched down, removed or deleted when manufactured.

(5) Falconry means: Possession, control, or use of a raptor for the purpose of hunting and free flight training.

(6) Anadromous game fish means:

(a) Steelhead trout, *Oncorhynchus mykiss*

(b) Searun cutthroat, *Oncorhynchus clarkii*

(c) Searun Dolly Varden, *Salvelinus malma*

(7) Handgun means: Any pistol, revolver or short firearm with a barrel length of less than sixteen inches and does not have a shoulder stock.

(8) A lure means: A manufactured article with one or more hooks attached, utilized for attraction or enticement of game fish.

(9) Bait means: A natural substance, fresh or processed, utilized for attraction or enticement of wildlife and game fish.

WSR 89-14-108

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed July 3, 1989, 4:40 p.m.]

Original Notice.

Title of Rule: Repealing WAC 232-28-20401 Incisor tooth requirement, 232-28-206 1983 Fall opening dates, 232-28-209 1985 Fall opening dates, 232-28-21201 Amendment to 1986 Hunting seasons and rules, 232-28-404 1981-82 Upland game bird and migratory waterfowl seasons, 232-28-60101 Opening of South Warden and Warden lakes in Grant County, 232-28-60102 Closing of Medical Lake in Spokane County, 232-28-604 Game fish seasons and catch limits, 232-28-60415 Season extension on Burke Lake (Grant County) through December 31, 1982, 232-28-605 1983 Game fish seasons and catch limits, 232-28-60508 Establish and open fishing season on the Snake and Grande Ronde rivers to angling for steelhead and 232-28-61610 Amendment to 1987-88 Washington game fish regulations—Elwha River.

Purpose: To repeal obsolete WAC's relative to seasons that have expired.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Repealing obsolete WAC's.

Reasons Supporting Proposal: Repealing obsolete WAC's.

Name of Agency Personnel Responsible for Drafting and Implementation: Lee S. Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; and Enforcement: Dan Wyckoff, A.D. Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Department of Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Repealing obsolete WAC's.

Proposal Changes the Following Existing Rules: It repeals them.

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

Hearing Location: Towne Plaza Motor Inn, North Seventh Street, Yakima, WA 98901, on August 12, 1989, at 8:00 a.m.

Submit Written Comments to: Administrative Regulations Officer, Washington Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, by August 9, 1989.

Date of Intended Adoption: August 12, 1989.

July 3, 1989

Lee S. Smith

Administrative Regulations Officer

REPEALER

Repealing the following sections of the Washington Administrative Code:

- WAC 232-28-20401 Incisor Tooth Requirement.
- WAC 232-28-206 1983 Fall Opening Dates.
- WAC 232-28-209 1985 Fall Opening Dates.
- WAC 232-28-21201 Amendment to 1986 Hunting Seasons and Rules.
- WAC 232-28-404 1981-82 Upland Game Bird and Migratory Waterfowl Seasons.
- WAC 232-28-60101 Opening of South Warden and Warden Lakes in Grant County.
- WAC 232-28-60102 Closing of Medical Lake in Spokane County.
- WAC 232-28-604 Game Fish Seasons and Catch Limits.
- WAC 232-28-60415 Season Extension on Burke Lake (Grant County) through December 31, 1982.
- WAC 232-28-605 1983 Game Fish Seasons and Catch Limits.
- WAC 232-28-60508 Establish and Open Fishing Season on the Snake and Grande Ronde Rivers to Angling for Steelhead.
- WAC 232-28-61610 Amendment to 1987-88 Washington Game Fish Regulations—Elwha River.

WSR 89-14-109

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed July 3, 1989, 4:44 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-057 Hunting with aid of aircraft, boats or other vehicles.

Purpose: Enforcement of laws relating to illegal taking of wildlife.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Proposed rule prohibits shining of artificial light from motor vehicles or other conveyance upon wildlife while armed with a firearm or bow and arrow or crossbow.

Reasons Supporting Proposal: Enforcement of laws regarding illegal taking of wildlife.

Name of Agency Personnel Responsible for Drafting: Lee S. Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; Implementation and Enforcement: Dan Wyckoff, A.D. Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Department of Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Proposed rule prohibits shining of artificial light from motor vehicles or other conveyance upon wildlife while armed with an firearm or bow and arrow or crossbow.

Proposal Changes the Following Existing Rules: It adds additional restrictions to hunting with the aid of aircraft, boats or other vehicles—Artificial lights.

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

Hearing Location: Towne Plaza Motor Inn, North Seventh Street, Yakima, WA 98901, on August 12, 1989, at 8:00 a.m.

Submit Written Comments to: Administrative Regulations Officer, Department of Wildlife, 600 Capitol Way North, Yakima, WA 98901, [Olympia, WA 98501-1091], by August 9, 1989.

Date of Intended Adoption: August 12, 1989.

July 1 [3], 1989

Lee S. Smith

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 177, filed 1/28/82)

WAC 232-12-057 HUNTING WITH AID OF AIRCRAFT, BOATS OR OTHER VEHICLES — ARTIFICIAL LIGHTS. (1) It is unlawful to use aircraft to spot, locate or report the location of wildlife for the purpose of hunting; except as authorized by a permit issued by the director.

(2) It is unlawful to hunt wildlife from a vehicle, aircraft, except as authorized by a permit issued by the director, or from a boat propelled by motor unless the motor of such boat has been completely shut off and its progress has ceased.

(3) It is unlawful to use a vehicle, aircraft, or motor-propelled boat for the purpose of pursuing, concentrating, or harassing any wild animal or wild bird.

(4) It is unlawful to hunt big game on the day one was airborne in an aircraft, except on a regularly scheduled commercial airline flight.

(5) It is unlawful to shine from an aircraft, boat, motor vehicle or other conveyance an artificial light upon, or to search for, wildlife or domestic animals while in possession of a firearm, bow and arrow, or crossbow, PROVIDED HOWEVER that this shall not apply to the inadvertent shining of the fixed headlights of a motor vehicle upon wildlife while such vehicle is being operated in the course of normal travel upon an established roadway or in conjunction with established ranching, agricultural or industrial activities.

WSR 89-14-110

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed July 3, 1989, 4:46 p.m.]

Original Notice.

Title of Rule: Repealing WAC 232-12-194 Procedure—Petitions for reissuance of hunting license—Time period for petition—Juvenile applicants, 232-12-197 Procedures to review administrative license decisions, 232-12-207 Petitions—Consideration by commission and 232-12-221 Petitions—Form—Scheduling—Ruling.

Purpose: To repeal obsolete procedural regulations.

Statutory Authority for Adoption: RCW 34.05.220.

Statute Being Implemented: RCW 34.05.220.

Summary: Repeals obsolete procedural regulations.

Reasons Supporting Proposal: The agency procedural regulations have been invalidated by the new Administrative Procedure Act effective July 1, 1989.

Name of Agency Personnel Responsible for Drafting and Implementation: Lee S. Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; and Enforcement: Dan Wyckoff, A.D. Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Department of Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Repealing obsolete WAC's.

Proposal Changes the Following Existing Rules: It repeals them.

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

Hearing Location: Towne Plaza Motor Inn, North Seventh Street, Yakima, WA 98901, on August 12, 1989, at 8:00 a.m.

Submit Written Comments to: Administrative Regulations Officer, Washington Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, by August 9, 1989.

Date of Intended Adoption: August 12, 1989.

July 3, 1989

Lee S. Smith

Administrative Regulations Officer

REPEALER

Repealing the following sections of the Washington Administrative Code

WAC 232-12-194 PROCEDURE—PETITIONS FOR REISSUANCE OF HUNTING LICENSE—TIME PERIOD FOR PETITION—JUVENILE APPLICANTS

WAC 232-12-197 PROCEDURES TO REVIEW ADMINISTRATIVE LICENSE DECISIONS

WAC 232-12-207 PETITIONS—CONSIDERATION BY COMMISSION

WAC 232-12-221 PETITIONS—FORM—SCHEDULING—RULING

WSR 89-14-111

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed July 3, 1989, 4:50 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-024 Tagging requirements for bobcat, Canada lynx, cougar and river otter.

Purpose: To improve the identification system for bobcat, Canada Lynx, cougar and river otters which are taken lawfully and to provide for the collection of biological data.

Statutory Authority for Adoption: RCW 77.12.030 and 77.12.040.

Statute Being Implemented: RCW 77.12.030 and 77.12.040.

Summary: Requires lawful kills to be reported within 48 hours and to require that pelts be sealed by a Department of Wildlife employee.

Reasons Supporting Proposal: To improve the identification system for bobcat, Canada lynx, cougar and river otters which are taken lawfully and to provide for the collection of biological data.

Name of Agency Personnel Responsible for Drafting: Lee S. Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; and Implementation and Enforcement: Dan Wyckoff, A.D. Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Department of Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To improve the identification system for lawfully taken bobcats, cougars, Canada lynx, and river otters; to provide for collection of biological data; to require that lawful kills be reported within 48 hours; and to require that pelts be sealed by a Department of Wildlife employee.

Proposal Changes the Following Existing Rules: It requires lawful kills to be reported within 48 hours and it requires that pelts be sealed by a Department of Wildlife employee.

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

Hearing Location: Towne Plaza Motor Inn, North Seventh Street, Yakima, WA 98901, on August 12, 1989, at 8:00 a.m.

Submit Written Comments to: Administrative Regulations Officer, Washington Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, by August 9, 1989.

Date of Intended Adoption: August 12, 1989.

July 3, 1989

Lee S. Smith

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 312, filed 6/20/88)

WAC 232-12-024 (~~(TAGGING)~~) SEALING OF HIDE AND TOOTH REQUIREMENTS FOR BOBCAT, CANADA LYNX, COUGAR AND RIVER OTTER. It is unlawful to possess (~~or export from the state of Washington;~~) bobcat, Canada lynx, cougar or river otter pelts or parts thereof taken in Washington unless they have a department identification (~~(tag)~~) seal attached to (~~(them)~~) the pelt.

(1) Pelts of bobcat (~~(lynx)~~) and river otter must be (~~(tagged)~~) sealed by an authorized department employee within ten days after the close of the appropriate (~~(hunting or)~~) trapping season (~~(†)~~) in which they were harvested. (~~(Cougar pelts must be tagged within ten days of the date of kill.~~)

~~All bobcat, Canada lynx, cougar and river otter pelts must be presented by the person harvesting the animal to a wildlife agent or department office for tagging.)~~

(2) A permit holder who takes a cougar must notify the department of wildlife (by calling the Poaching Hotline number 1-800-562-5626), or any regional office) within 48 hours of kill. A permit holder who takes a cougar must present the unfrozen pelt and skull to a Washington department of wildlife agent for inspection, sealing and premolar teeth extraction by a department employee within five days of the kill.

(3) A permit holder who takes a Canada lynx must notify the department of wildlife (by calling the Poaching Hotline number 1-800-562-5626, or any regional office) within 48 hours of kill. A permit holder who takes a Canada lynx must present the pelt and unfrozen

carcass to a Washington department of wildlife agent for inspection, sealing and canine tooth extraction by a department employee within five days of the kill.

(4) It is unlawful to transport or cause the transport of an unprocessed native cat pelt taken in Washington out of Washington without a department seal attached to the pelt.

(5) Bobcat, Canada lynx, (~~(or)~~) river otter or cougar taken outside Washington and imported into the state, must be identified by a tag and/or seal from the state or country of origin and accompanied by an invoice or declaration specifying the number of pelts in the shipment.

(6) It is unlawful to possess an unlocked, broken or otherwise open department bobcat, Canada lynx, river otter or cougar seal unless the seal wire or band has been cut through and removed from a hide that has been processed.

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

WSR 89-14-112 PROPOSED RULES DEPARTMENT OF WILDLIFE

[Filed July 3, 1989, 4:51 p.m.]

Original Notice.

Title of Rule: Repealing WAC 232-12-827 Hunting of game animals by person of disability.

Purpose: To repeal obsolete and expired WAC.

Statutory Authority for Adoption: RCW 77.12.010 and 77.12.040.

Statute Being Implemented: RCW 77.12.010 and 77.12.040.

Summary: Repeals obsolete and expired WAC which has been replaced with WAC 232-12-829.

Reasons Supporting Proposal: Repealing obsolete and expired WAC.

Name of Agency Personnel Responsible for Drafting and Implementation: Lee S. Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; and Enforcement: Dan Wyckoff, A.D. Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Department of Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Repealing obsolete WAC which has been replaced by WAC 232-12-829.

Proposal Changes the Following Existing Rules: It repeals it.

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

Hearing Location: Town Plaza Motor Inn, North Seventh Street, Yakima, WA 98901, on August 12, 1989, at 8:00 a.m.

Submit Written Comments to: Administrative Regulations Officer, Washington Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, by August 9, 1989.

Date of Intended Adoption: August 12, 1989.

July 3, 1989

Lee S. Smith

Administrative Regulations Officer

REPEALER

Repealing the following section of the Washington Administrative Code.

WAC 232-12-827 HUNTING OF GAME ANIMALS BY PERSONS OF DISABILITY

WSR 89-14-113
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed July 3, 1989, 4:51 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-177 Vehicles using department lands; and readopting WAC 232-12-184 Aircraft—Authorized use on department lands, 232-12-187 Access areas—Other department lands—Wildlife agent to control traffic thereon, 232-12-251 Removal of minerals, wood and artifacts from department lands and 232-12-254 Discharge of litter on department lands—Unlawful.

Purpose: WAC 232-12-177, to adopt a specific provision for enforcement of road management agreements; and others, to cite a more specific authority for enforcement of regulation relating to land management.

Statutory Authority for Adoption: RCW 77.12.210 and 77.12.320.

Statute Being Implemented: RCW 77.12.210 and 77.12.320.

Summary: Regulation of land owned, controlled and/or managed by Department of Wildlife.

Reasons Supporting Proposal: Enforcement.

Name of Agency Personnel Responsible for Drafting: Lee S. Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; **Implementation and Enforcement:** Dan Wyckoff, A.D. Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Department of Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules will adopt a specific provision for enforcement of road management agreements and cite a more specific authority for enforcement of regulations relating to land management.

Proposal Changes the Following Existing Rules: Amendment to WAC 232-12-177 adds specific revisions relative to land managed and controlled pursuant to road management agreements.

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

Hearing Location: Towne Plaza Motor Inn, North Seventh Street, Yakima, WA 98901, on August 12, 1989, at 8:00 a.m.

Submit Written Comments to: Administrative Regulations Officer, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, by August 9, 1989.

Date of Intended Adoption: August 12, 1989.

July 3, 1989
 Lee S. Smith
 Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 177, filed 1/28/82)

WAC 232-12-177 VEHICLES (~~USING DEPARTMENT LANDS~~). (1) It is unlawful to operate a motor driven vehicle on lands owned, controlled or managed by the department except on such land or roads as may be authorized by the director.

(2) It is unlawful to operate a motor driven vehicle on a private road controlled or managed by the department pursuant to road management agreement in a manner or for a purpose contrary to posted signs or notices except as authorized by the director.

READOPTED SECTION (Readopting Order 165, filed 6/1/81)

WAC 232-12-184 AIRCRAFT—AUTHORIZED USE ON DEPARTMENT LANDS. Except as authorized by the director or the director of the department of natural resources, it is unlawful to land aircraft on lands owned, leased or controlled by the department, except in the case of a bona fide emergency.

READOPTED SECTION (Readopting Order 177, filed 1/28/82)

WAC 232-12-187 ACCESS AREAS—OTHER DEPARTMENT LANDS—WILDLIFE AGENT TO CONTROL TRAFFIC THEREON. It is unlawful to use department owned or controlled lands or waters in a manner or for a purpose contrary to signs or notices posted on those lands or to refuse or neglect to obey directions regarding use of such property by a wildlife agent. It is unlawful to use department owned or controlled lands or waters for a commercial purpose without a permit issued by the director.

READOPTED SECTION (Readopting Order 165, filed 6/1/81)

WAC 232-12-251 REMOVAL OF MINERALS, WOOD AND ARTIFACTS FROM DEPARTMENT LANDS. It is unlawful to remove petrified wood, minerals, fossils, wood products or artifacts from department lands unless such removal is authorized by a permit issued by the director.

READOPTED SECTION (Readopting Order 165, filed 6/1/81)

WAC 232-12-254 DISCHARGE OF LITTER ON DEPARTMENT LANDS—UNLAWFUL. It is unlawful for any person to throw, to drop, or to leave any discarded object, garbage, debris, or waste upon any of the properties owned, leased or controlled by the department except into a litter or garbage receptacle or container installed for that purpose on such property.

WSR 89-14-114
PREPROPOSAL COMMENTS
DEPARTMENT OF WILDLIFE
 [Filed July 3, 1989, 4:54 p.m.]

Subject of Possible Rule Making: Adoption of 1990-92 Fishing seasons and regulations; stabilization of hunting game management unit (GMU) boundaries and boundary descriptions; regulation of the practice of taxidermy; and regulation of appeals and other proceedings before the agency.

Persons may comment on this subject in writing to Washington Department of Wildlife, Administrative Regulations Officer, 600 Capitol Way North, Olympia, WA 98501-1091, before August 15, 1989.

July 3, 1989
 Lee S. Smith
 Administrative Regulations Officer

WSR 89-14-115
PROPOSED RULES
DEPARTMENT OF WILDLIFE

[Filed July 3, 1989, 4:54 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-191 Three convictions forfeits privileges.

Purpose: To cite a more specific authority and conform the regulation to the requirements of RCW 77.21.060.

Statutory Authority for Adoption: RCW 77.21.060.

Statute Being Implemented: RCW 77.21.060.

Summary: Will cite a more specific authority and conform the regulation to the requirements of RCW 77.21.060.

Reasons Supporting Proposal: To conform the regulation to the requirements of RCW 77.21.060.

Name of Agency Personnel Responsible for Drafting: Lee S. Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; Implementation and Enforcement: Dan Wyckoff, A.D. Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Department of Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To cite a more specific authority and conform the regulation to the requirements of RCW 77.21.060.

Proposal Changes the Following Existing Rules: Conforms regulation to requirement of RCW 77.21.060.

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

Hearing Location: Towne Plaza Motor Inn, North Seventh Street, Yakima, WA 98901, on August 12, 1989, at 8:00 a.m.

Submit Written Comments to: Administrative Regulations Officer, Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, by August 9, 1989.

Date of Intended Adoption: August 12, 1989.

July 3, 1989

Lee S. Smith

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 165, filed 6/1/81)

WAC 232-12-191 THREE CONVICTIONS FORFEITS PRIVILEGES. A person who has been convicted of three violations of the ((game)) wildlife code of the state of Washington (title 77 RCW) or rules ((of the commission)) adopted under that title, within a ten year period, shall not be issued another license, permit, tag, stamp or punch card for any activity described in chapter 77.32 RCW until those privileges are restored by the ((commission)) director.

WSR 89-14-116
RULES OF COURT
STATE SUPREME COURT

[June 29, 1989]

IN THE MATTER OF THE AMENDMENT No. 25700-A-435 TO RPC 1.14 ORDER

The Legal Foundation of Washington having approved the proposed amendment to RPC 1.14 and the Court having determined that the amendment will aid in the prompt and orderly administration of justice and having further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendment will be published expeditiously in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 29th day of June, 1989.

Keith M. Callow

Table with 2 columns: Name and Signature. Rows include Robert F. Utter, Robert F. Brachtenbach, James Dolliver, Dore, A/C/J, Pearson, J., Andersen, J., Durham, J., Smith, J.

RPC 1.14
PRESERVING IDENTITY OF FUNDS AND PROPERTY OF A CLIENT

- (a) Unchanged.
(b) Unchanged.
(c) Unchanged.
(d) Escrow and other funds held by a lawyer incident to the closing of any real estate or personal property transaction are client funds subject to this rule regardless of whether the lawyer, the law firm, or the parties view the funds as belonging to clients or non-clients.

WSR 89-14-117
RULES OF COURT
STATE SUPREME COURT
[June 30, 1989]

IN THE MATTER OF REFERENCES TO No. 25700-A-436 JUSTICE COURT ADMINISTRATIVE RULES (JAR) AND JUSTICE COURT ORDER CIVIL RULES (JCR)

The Washington State Supreme Court having adopted new designations for the Justice Court Administrative Rules (JAR) and Justice Court Civil Rules (JCR) effective September 1, 1989, which will be titled Administrative Rules for Courts of Limited Jurisdiction (ARLJ) and Civil Rules for Courts of Limited Jurisdiction (CRLJ), and having determined that references to the Justice Court Administrative rules (JAR) and Justice Court Civil Rules (JCR) contained in other court rules should bear the new designation to aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

WSR 89-14-119
PROPOSED RULES
SECRETARY OF STATE
(Productivity Board)

[Filed July 5, 1989, 1:58 p.m.]

(a) That all references in the court rules to the Justice Court Administrative Rules (JAR) shall be changed to Administrative Rules for Courts of Limited Jurisdiction (ARLJ) and references in the court rules to Justice Court Civil Rules (JCR) shall be changed to Civil Rules for Courts of Limited Jurisdiction (CRLJ);

(b) That the reference in the court rules to the Justice Court Administrative Rules (JAR) and Justice Court Civil Rules shall be changed on September 1, 1989, to coincide with the effective date of the new designation of the Administrative Rules for Courts of Limited Jurisdiction (ARLJ) and Civil Rules for Courts of Limited Jurisdiction (CRLJ).

DATED at Olympia, Washington this 30th day of June, 1989.

	Callow, C.J.
Robert F. Utter	Pearson, J.
Robert F. Brachtenbach, J.	Andersen, J.
James Dolliver	Durham, J.
Dore, A/C/J	Smith, J.

WSR 89-14-118
RULES OF COURT
STATE SUPREME COURT
[June 30, 1989]

IN THE MATTER OF THE COMMENTS No. 25700-A-437
TO THE MANDATORY ARBITRATION ORDER
RULES (MAR)

The Mandatory Arbitration Rules (MAR) contain comments drafted by the Judicial Council in 1982, which have not been adopted by the Court and the Court having determined that the deletion of those comments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the comments to the Mandatory Arbitration Rules (MAR) shall be deleted from the Courts of Rule.

(b) The comments to the Mandatory Arbitration Rules (MAR) shall be deleted effective September 1, 1989.

DATED at Olympia, Washington this 30th day of June, 1989.

	Callow, C.J.
Robert F. Utter	Pearson, J.
Robert F. Brachtenbach, J.	Andersen, J.
James Dolliver	Durham, J.
Dore, A/C/J	Smith, J.

Original Notice.

Title of Rule: Chapter 383-07 WAC, rules for the teamwork incentive program.

Purpose: Amend portion of chapter 383-07 WAC, which provide operating rules and guidelines governing the teamwork incentive program.

Other Identifying Information: Amending WAC 383-07-050 Responsibilities of the TIP liaison; 383-07-060 Employee responsibilities; 383-07-080 Application format; 383-07-090 Approval of the application; 383-07-100 Reports to the Productivity Board; 383-07-110 Criteria for evaluation of savings; 383-07-120 Distribution of awards; and 383-07-130 Award authorization and payment procedures.

Statutory Authority for Adoption: Chapter 41.60 RCW.

Statute Being Implemented: Chapter 41.60 RCW.

Summary: Provides operational rules and guidelines for agencies and institutions participating or wishing to participate in the state's team productivity program.

Reasons Supporting Proposal: Provides further clarification and updates statutory changes.

Name of Agency Personnel Responsible for Drafting: Carolyn W. Smith, Legislative Building, 586-3789; Implementation: All state agencies and institutions of Washington state; and Enforcement: State of Washington Productivity Board, AS-22, 586-3789.

Name of Proponent: Washington State Productivity Board, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Incorporated suggestions given at meeting on June 20, 1989.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of chapter 383-07 WAC, is to provide rules for the development and administration of the state's teamwork incentive program (TIP). Responsibilities of the board and staff are defined. Guidelines for agency managers and TIP liaisons and participants are reiterated.

Proposal Changes the Following Existing Rules: Legislation amending chapter 41.60 RCW invalidates several sections of chapter 383-07 WAC. As of July 1, 1989, agencies no longer need to transfer 10% of savings to cover board operational costs. The method used to establish an acceptable data base for units reenrolling in the Teamwork Incentive Program now allows for averaging costs. Other minor changes are made for clarification.

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

Hearing Location: Office of Secretary of State, Legislative Building, 2nd Floor, Olympia, WA 98504, on September 7, 1989, at 10:30 a.m.

Submit Written Comments to: Productivity Board,
Legislative Building, AS-22, by August 10, 1989.

Date of Intended Adoption: September 7, 1989.

July 5, 1989
Carolyn W. Smith
Administrator

AMENDATORY SECTION (Amending Order 88-1, filed 7/14/88)

WAC 383-07-050 RESPONSIBILITIES OF THE TIP LIAISON. The TIP liaison, under these guidelines, serves as the primary link between the board and the agency, and is responsible and accountable to agency management. The TIP liaison shall:

(1) Coordinate the TIP program within the agency as a member of the agency's TIP steering committee or as an individual liaison between the agency and the board.

(2) Oversee the completion and submission of all TIP applications, working within agency chain of command and with productivity board staff. Ensure that all applications meet the criteria established by RCW 41.60.100, WAC 383-07-070 and 383-07-080.

(3) Monitor on-going TIP activities within the agency, reviewing all quarterly reports for completeness and accuracy and transmit reports to the program administrator in a timely manner.

(4) Represent the agency on TIP-related issues at board meetings. Attend regularly scheduled board meetings when the agenda includes TIP projects or issues relevant to the agency.

(5) Promote the program within the agency through on-site presentations, written communications, facilitation of meetings and other effective means to acquaint employees and supervisors with the purpose and benefits of the program.

(6) Ensure that award authorizations are processed, and that payments are made to individuals (~~and the board~~) in a timely manner.

(7) Identify and encourage use of internal resources, such as training staff and management analysts, to assist units participating in TIP.

(8) Identify and encourage use of other resources inside and outside state government, such as the state energy office, the career executive program, and other knowledgeable experts.

(9) Coordinate with agency management and the board recognition of groups completing the year-long project.

AMENDATORY SECTION (Amending Order 88-1, filed 7/14/88)

WAC 383-07-060 EMPLOYEE RESPONSIBILITIES. Employees within a unit form a team under these guidelines. As team members, individuals should:

(1) Understand the mission of the unit and be aware of performance goals and fiscal targets identified in the TIP data base.

(2) Identify (~~problem~~) areas which the team should address as a means to improve performance outcomes.

(3) Share ideas with other team members and build upon ideas shared by others.

(4) Propose (~~solutions to unit problems~~) efficiencies and develop action plans.

(5) Submit action plans to management as needed to implement proposals.

(6) Implement changes and evaluate their effectiveness.

AMENDATORY SECTION (Amending Order 88-1, filed 7/14/88)

WAC 383-07-080 APPLICATION FORMAT. For applications to be considered by the board, units interested in participating in the teamwork incentive program must meet these eligibility criteria:

(1) An identification of the data base as specified in RCW 41.60.110(1), against which savings shall be evaluated at the end of the project year, including the following:

(a) A general description of the unit and its mission;

(b) Performance measures which quantify the workflow and outcome measures of the unit;

(c) Fiscal information pertinent to outcomes;

(d) A list of participating personnel, with special notation of those working less than full time; and

(e) A statement of how the unit expects to achieve gains.

(2) Signatures of agency management authorizing the unit's participation in the TIP project, including:

(a) The head of the agency in which the unit is located (~~as required by RCW 41.60.100~~) or his or her designee;

(b) The supervisor of the participating unit;

(c) The appropriate fiscal/budget officer of the agency (~~and/or the agency accounts officer of the agency~~); and

(d) Other signatures specified by the agency, such as the personnel manager and division directors.

AMENDATORY SECTION (Amending Order 88-1, filed 7/14/88)

WAC 383-07-090 APPROVAL OR DENIAL OF THE APPLICATION. Upon receipt of the official application, the program administrator shall:

(1) Review the application for completeness and accuracy, coordinating with the agency TIP liaison on any points needing clarification.

(2) Schedule the application (~~review~~) for board action at the next appropriate meeting.

(3) Prepare an executive summary about the unit, its performance measures and its TIP goals to be sent to board members prior to scheduled action.

(4) Make a recommendation to board members concerning the application, based on whether or not the application is reasonable and practical and includes program indicators which lend themselves to a judgment of success or failure.

(5) The board may approve or deny an application based upon whether or not the proposal is deemed reasonable, practical and includes program indicators which lend themselves to a judgment of success or failure.

(6) Communicate with the TIP liaison and interested others about dates for the anticipated board action (~~approving~~) on the application, the quarterly reports and the anticipated final review and approval of any unit award.

AMENDATORY SECTION (Amending Order 88-1, filed 7/14/88)

WAC 383-07-100 REPORTS TO THE PRODUCTIVITY BOARD. Each unit accepted to participate in the program shall submit regular progress reports to the board through the agency's TIP liaison.

(1) Quarterly reports shall be submitted to the board in accordance with a schedule arranged by the program administrator and shall contain, as a minimum, the following information:

(a) An update on unit accomplishments relative to TIP performance measures;

(b) An update on personnel changes; and

(c) An indication of quality of outcomes.

(2) Final reports shall be submitted to the board within (~~two~~) three months following the TIP completion date and shall include, as a minimum, the following information:

(a) Annual accomplishments relative to TIP performance measures as compared to TIP data base measures, expressed in both quantitative and qualitative terms, including the total net savings, the unit award and the amount of a full award share;

(b) A list of personnel eligible to receive full award shares;

(c) A list of personnel eligible to receive partial award shares, based on the fraction of the year each has worked for the unit;

(d) A statement of quality of services written by agency management; and

(e) Specific information requested by the program administrator on behalf of the board.

(3) In their final report, the unit shall submit documentation which quantifies performance measures, fiscal measures, and outcome measures for the TIP project year. Acceptable documentation may include, but is not limited to:

(a) Fiscal documents, such as budgets and accounting reports;

(b) Agency management reports quantifying outcomes;

(c) Reports from other agencies, such as the state energy office or federal agencies;

(d) Reports made to other agencies or governmental units;

(e) Personnel reports quantifying overtime hours;

(f) Other reports relevant to TIP performance outcomes and operational costs.

(4) The program administrator may extend due dates for reports.

AMENDATORY SECTION (Amending Order 88-1, filed 7/14/88)

WAC 383-07-120 DISTRIBUTION OF AWARDS. Awards shall be distributed to employees and supervisors of the unit as follows:

(1) If the board determines in its judgment that a unit qualifies for an award, the board shall authorize payment of the award to the employees and supervisors of the unit a percentage of net savings as specified in RCW 41.60.120.

(2) The unit award shall be divided and distributed in equal shares to employees and supervisors of the unit, except those who have worked within the unit for less than twelve months of the TIP-year or less than full time during the twelve months of the project shall receive a pro rata share based upon the fraction of the TIP-year worked.

(3) Units not demonstrating cost efficiencies may receive special recognition of merit in the form and manner determined by the board.

AMENDATORY SECTION (Amending Order 88-1, filed 7/14/88)

WAC 383-07-130 AWARD AUTHORIZATION AND PAYMENT PROCEDURES. Following approval of a teamwork incentive award by the productivity board, the program administrator shall submit ~~((an award invoice))~~ a notice to the agency authorizing payment of awards ~~((and transfer of fees))~~ in accordance with RCW 41.60.120.

(1) The award authorization ~~((invoice))~~ notice shall include:

- (a) The total amount of savings;
- (b) The unit award based upon the percentage specified by RCW 41.60.120; and
- (c) A list of employees and the amount of each individual's award share ~~((; and~~
- ~~((d) The amount to be transferred to the department of personnel service fund in accordance with RCW 41.60.120)).~~

(2) The award authorization ~~((invoice))~~ notice shall be sent to the agency's TIP liaison for processing payments of awards and fees. A copy of the authorization shall be forwarded to the unit supervisor ~~((; the agency accounts officer for the department of personnel, and the agency accounts officer for the board)).~~

(3) The award authorization ~~((invoice))~~ notice shall be sent ~~((within five working days))~~ as soon as possible following board action.

(4) The agency shall arrange for payment of awards in a timely manner.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 383-07-110 CRITERIA FOR EVALUATION OF SAVINGS.

WSR 89-14-120
EMERGENCY RULES
SECRETARY OF STATE
(Productivity Board)
[Filed July 5, 1989, 1:59 p.m.]

Date of Adoption: July 5, 1989.

Purpose: To amend portions of chapter 383-07 WAC, relating to the teamwork incentive program.

Citation of Existing Rules Affected by this Order: Amending WAC 383-07-050, 383-07-060, 383-07-080 through 383-07-130.

Statutory Authority for Adoption: Chapter 41.60 RCW.

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

Reasons for this Finding: Statutory changes made in chapter 41.60 RCW became effective with the beginning of FY90, July 1, 1989.

Effective Date of Rule: Immediately.

July 5, 1989
Carolyn W. Smith
Administrator

AMENDATORY SECTION (Amending Order 88-1, filed 7/14/88)

WAC 383-07-050 RESPONSIBILITIES OF THE TIP LIAISON. The TIP liaison, under these guidelines, serves as the primary link between the board and the agency, and is responsible and accountable to agency management. The TIP liaison shall:

(1) Coordinate the TIP program within the agency as a member of the agency's TIP steering committee or as an individual liaison between the agency and the board.

(2) Oversee the completion and submission of all TIP applications, working within agency chain of command and with productivity board staff. Ensure that all applications meet the criteria established by RCW 41.60.100, WAC 383-07-070 and 383-07-080.

(3) Monitor on-going TIP activities within the agency, reviewing all quarterly reports for completeness and accuracy and transmit reports to the program administrator in a timely manner.

(4) Represent the agency on TIP-related issues at board meetings. Attend regularly scheduled board meetings when the agenda includes TIP projects or issues relevant to the agency.

(5) Promote the program within the agency through on-site presentations, written communications, facilitation of meetings and other effective means to acquaint employees and supervisors with the purpose and benefits of the program.

(6) Ensure that award authorizations are processed, and that payments are made to individuals ~~((and the board))~~ in a timely manner.

(7) Identify and encourage use of internal resources, such as training staff and management analysts, to assist units participating in TIP.

(8) Identify and encourage use of other resources inside and outside state government, such as the state energy office, the career executive program, and other knowledgeable experts.

(9) Coordinate with agency management and the board recognition of groups completing the year-long project.

AMENDATORY SECTION (Amending Order 88-1, filed 7/14/88)

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(1) Understand the mission of the unit and be aware of performance goals and fiscal targets identified in the TIP data base.

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(3) Share ideas with other team members and build upon ideas shared by others.

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AMENDATORY SECTION (Amending Order 88-1, filed 7/14/88)

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(1) An identification of the data base as specified in RCW 41.60.110(1), against which savings shall be evaluated at the end of the project year, including the following:

- (a) A general description of the unit and its mission;
- (b) Performance measures which quantify the work-flow and outcome measures of the unit;
- (c) Fiscal information pertinent to outcomes;
- (d) A list of participating personnel, with special notation of those working less than full time; and
- (e) A statement of how the unit expects to achieve gains.

(2) Signatures of agency management authorizing the unit's participation in the TIP project, including:

- (a) The head of the agency in which the unit is located (~~(; as required by RCW 41.60.100)~~) or his or her designee;
- (b) The supervisor of the participating unit;
- (c) The appropriate fiscal/budget officer of the agency (~~(and/or the agency accounts officer of the agency)~~); and
- (d) Other signatures specified by the agency, such as the personnel manager and division directors.

AMENDATORY SECTION (Amending Order 88-1, filed 7/14/88)

WAC 383-07-090 APPROVAL OR DENIAL OF THE APPLICATION. Upon receipt of the official application, the program administrator shall:

- (1) Review the application for completeness and accuracy, coordinating with the agency TIP liaison on any points needing clarification.
- (2) Schedule the application (~~(review)~~) for board action at the next appropriate meeting.
- (3) Prepare an executive summary about the unit, its performance measures and its TIP goals to be sent to board members prior to scheduled action.
- (4) Make a recommendation to board members concerning the application, based on whether or not the application is reasonable and practical and includes program indicators which lend themselves to a judgment of success or failure.
- (5) The board may approve or deny an application based upon whether or not the proposal is deemed reasonable, practical and includes program indicators which lend themselves to a judgment of success or failure.
- (6) Communicate with the TIP liaison and interested others about dates for the anticipated board action (~~(approving)~~) on the application, the quarterly reports and

the anticipated final review and approval of any unit award.

AMENDATORY SECTION (Amending Order 88-1, filed 7/14/88)

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- (a) An update on unit accomplishments relative to TIP performance measures;
 - (b) An update on personnel changes; and
 - (c) An indication of quality of outcomes.
- (2) Final reports shall be submitted to the board within ~~((two))~~ three months following the TIP completion date and shall include, as a minimum, the following information:

- (a) Annual accomplishments relative to TIP performance measures as compared to TIP data base measures, expressed in both quantitative and qualitative terms, including the total net savings, the unit award and the amount of a full award share;
- (b) A list of personnel eligible to receive full award shares;
- (c) A list of personnel eligible to receive partial award shares, based on the fraction of the year each has worked for the unit;
- (d) A statement of quality of services written by agency management; and
- (e) Specific information requested by the program administrator on behalf of the board.

(3) In their final report, the unit shall submit documentation which quantifies performance measures, fiscal measures, and outcome measures for the TIP project year. Acceptable documentation may include, but is not limited to:

- (a) Fiscal documents, such as budgets and accounting reports;
 - (b) Agency management reports quantifying outcomes;
 - (c) Reports from other agencies, such as the state energy office or federal agencies;
 - (d) Reports made to other agencies or governmental units;
 - (e) Personnel reports quantifying overtime hours;
 - (f) Other reports relevant to TIP performance outcomes and operational costs.
- (4) The program administrator may extend due dates for reports.

AMENDATORY SECTION (Amending Order 88-1, filed 7/14/88)

WAC 383-07-120 DISTRIBUTION OF AWARDS. Awards shall be distributed to employees and supervisors of the unit as follows:

(1) If the board determines in its judgment that a unit qualifies for an award, the board shall authorize payment of the award to the employees and supervisors of the unit a percentage of net savings as specified in RCW 41.60.120.

(2) The unit award shall be divided and distributed in equal shares to employees and supervisors of the unit, except those who have worked within the unit for less than twelve months of the TIP-year or less than full time during the twelve months of the project shall receive a pro rata share based upon the fraction of the TIP-year worked.

(3) Units not demonstrating cost efficiencies may receive special recognition of merit in the form and manner determined by the board.

AMENDATORY SECTION (Amending Order 88-1, filed 7/14/88)

WAC 383-07-130 AWARD AUTHORIZATION AND PAYMENT PROCEDURES. Following approval of a teamwork incentive award by the productivity board, the program administrator shall submit (~~an award invoice~~) a notice to the agency authorizing payment of awards (~~and transfer of fees~~) in accordance with RCW 41.60.120.

(1) The award authorization (~~invoice~~) notice shall include:

(a) The total amount of savings;

(b) The unit award based upon the percentage specified by RCW 41.60.120, and

(c) A list of employees and the amount of each individual's award share(~~and~~

~~d) The amount to be transferred to the department of personnel service fund in accordance with RCW 41.60.120).~~

(2) The award authorization (~~invoice~~) notice shall be sent to the agency's TIP liaison for processing payments of awards and fees. A copy of the authorization shall be forwarded to the unit supervisor(~~the agency accounts officer for the department of personnel, and the agency accounts officer for the board~~).

(3) The award authorization (~~invoice~~) notice shall be sent (~~within five working days~~) as soon as possible following board action.

(4) The agency shall arrange for payment of awards in a timely manner.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 383-07-110 CRITERIA FOR EVALUATION OF SAVINGS.

WSR 89-14-121
NOTICE OF PUBLIC MEETINGS
FOREST PRACTICES BOARD
[Memorandum—July 5, 1989]

The Washington Forest Practices Board has rescheduled its regular quarterly meeting to August 10, 1989. The meeting will take place at 2 p.m. at the Nespelem Community Center, Colville Indian Agency, Highway 155, Nespelem, Washington.

Additional information may be obtained from the Division of Forest Regulation and Assistance, 1007 South Washington Street, EL-03, Olympia, WA, 98504, (206) 753-5315.

WSR 89-14-122
RULES COORDINATOR
CENTENNIAL COMMISSION
[Filed—July 5, 1989, 2:53 p.m.]

By action of the 1989 Washington Centennial Commission at its June 29, 1989, meeting, the following person is hereby designated as the agency's Rules Coordinator: Frank Edmondson, 1989 Washington Centennial Commission, 111 West 21st Street, Mailstop KL-12, Olympia, Washington 98504, phone 586-4963.

WSR 89-14-123
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES
[Filed July 5, 1989, 3:33 p.m.]

Original Notice.

Title of Rule: Crime victims' medical assistance.

Purpose: To implement changes in eligibility for the crime victims compensation program directed by the 1989 legislature.

Statutory Authority for Adoption: RCW 7.68.030.

Statute Being Implemented: RCW 7.68.070.

Summary: WAC 296-30-010, amending definitions of terms used in this chapter by defining "department" and "services provided"; and WAC 296-30-025, adopting a new section to establish a procedure for limiting payment of crime victims' benefits to persons not eligible for certain DSHS programs.

Reasons Supporting Proposal: The legislature has given the Department of Labor and Industries the responsibility to operate the crime victims compensation program within the appropriations and the statutory conditions and limitations on benefits. The proposed rule is designed to fulfill this responsibility, specifically the amended provisions of RCW 7.68.070(16). It requires an applicant to complete a form to determine probable eligibility for certain DSHS programs.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark M. McDermott, 925 Plum Street, Olympia, 753-3487.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amendments to the crime victims compensation statute prohibit the program from paying benefits to persons who qualify for certain DSHS programs. The rule requires applicants for crime victims' benefits to complete an additional form to determine probable eligibility for certain medical assistance programs administered by DSHS and to apply for DSHS benefits if it appears they are eligible. The rule is expected to facilitate compliance with the legislative mandate.

Proposal Changes the Following Existing Rules: The proposal amends RCW 7.68.010 by defining two additional terms.

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

Hearing Location: General Administration Building, First Floor Conference Room, on August 11, 1989, at 9:00 a.m.

Submit Written Comments to: Mark M. McDermott, Assistant Director, by August 11, 1989.

Date of Intended Adoption: September 11, 1989.

July 3, 1989

Joseph A. Dear
Director

AMENDATORY SECTION (Amending Order 85-37, filed 12/11/85)

WAC 296-30-010 DEFINITIONS. Whenever used in these rules, the following words mean:

(1) "Innocent victim" means any person whose injury was not the direct, proximate result of his or her consenting to, provoking, or inciting the criminal act that resulted in the injury.

(2) "Bodily injury" means any harmful or offensive touching, and includes severe emotional distress where no touching takes place when:

(a) Claimant is not the object of the criminal act and:

(i) The distress is intentionally or recklessly inflicted;

(ii) The distress is inflicted by extreme or outrageous conduct;

(iii) The claimant has a reasonable apprehension of imminent bodily harm;

(iv) The claimant is in the immediate vicinity of the criminal act at the time the criminal act takes place.

(b) Claimant is the victim of the criminal act and:

(i) The distress is intentionally inflicted;

(ii) The distress is inflicted by outrageous or extreme conduct; and

(iii) The claimant had a reasonable apprehension of imminent bodily harm.

(3) "Private insurance" means sources of recompense available by contract, such as life or disability insurance.

(4) "Public insurance" means any state or federal statutory welfare and insurance plan that compensates victims or their beneficiaries as a result of the claimed injury or death. This does not include state, federal, or private deferred income retirement plans.

(5) The test used to define "the result of" as used in RCW 7.68.070 (3)(a) and (b) is two pronged. First, it must be determined that cause in fact exists, and second, it must then be determined that proximate cause exists.

(a) Cause in fact exists if "but for" the acts of the victim the crime that produced the injury would not have occurred.

(b) Proximate cause exists if, once cause in fact is found, it is determined that the acts of the victim:

(i) Resulted in a foreseeable injury to the victim;

(ii) Played a substantial role in the injury; and

(iii) Were the direct cause of the injury.

(6) "Institutions maintained and operated by department of social and health services" means those institutions in which the department

of social and health services assumes responsibility for medical coverage of the institution's residents.

(7) "Reasonable cooperation" generally exists when the claimant is:

(a) Willing to talk to police and give information to aid in the investigation; and

(b) Willing to assist in the prosecution of the alleged criminal.

(8) A person is "unjustly enriched" within the meaning of RCW 7.68.070(15) when it would be deficient in justice and fairness, or inequitable, to allow that person to obtain, or have control of or access to, benefits or compensation paid as a result of an injury to a victim of crime.

(9) "Department" means the department of labor and industries.

(10) "Services provided" means services covered under chapter 74.09 RCW or Title XIX of the Federal Social Security Act that are offered by the same type of provider and that are the same or equivalent to those benefits provided by the department under Title 51 or chapter 7.68 RCW.

NEW SECTION

WAC 296-30-025 MEDICAL ASSISTANCE ELIGIBILITY.

(1)(a) The benefits provided under chapter 7.68 RCW are not available to persons eligible for services provided under chapter 74.09 RCW or Title XIX of the Federal Social Security Act, except to the extent that costs for such services exceed service limits established by the department of social and health services. Applicants for benefits provided under chapter 7.68 RCW shall complete, concurrent with their application for crime victims benefits, a form to determine probable eligibility for services provided under chapter 74.09 RCW and Title XIX of the Federal Social Security Act. The application and the eligibility form shall be sent together to the offices of the crime victims compensation program in Olympia. Except for claims for sexual assault examinations under the provisions of RCW 7.68.170, the department will determine no claims submitted under chapter 7.68 RCW until these requirements are met.

(b) Persons receiving benefits provided under chapter 7.68 RCW and who do not receive services provided under chapter 74.09 RCW or Title XIX of the Federal Social Security Act shall annually complete the form used to determine eligibility for services provided under chapter 74.09 RCW and Title XIX of the Federal Social Security Act in order to continue receiving benefits under chapter 7.68 RCW.

(2)(a) Any person who is eligible for benefits provided under chapter 7.68 RCW and who the department determines may be eligible for services provided under chapter 74.09 RCW and Title XIX of the Federal Social Security Act shall apply to the department of social and health services to determine eligibility for such services.

(b) The department shall not provide benefits or compensation for services provided under chapter 74.09 RCW and Title XIX of the Federal Social Security Act to persons eligible for services provided under chapter 74.09 RCW and Title XIX of the Federal Social Security Act. The department also shall not provide benefits or compensation for services provided under chapter 74.09 RCW and Title XIX of the Federal Social Security Act to persons who refuse or otherwise fail to comply or cooperate with the requirements of this section, except to the extent that the costs for such services exceed service limits established by the department of social and health services.

(3) The form used to determine probable eligibility for services provided under chapter 74.09 RCW and Title XIX of the Federal Social Security Act shall be developed by the department in consultation with the department of social and health services. The form shall be provided to a claimant at the same time as the application form for crime victims benefits.

(4) The department shall provide application forms for crime victims benefits, the form to determine probable eligibility for services provided under chapter 74.09 RCW or Title XIX of the Federal Social Security Act, and a pamphlet describing the crime victims compensation program to hospitals, law enforcement agencies, community organizations, prosecutor based victim/witness units and, as requested, to other service groups. The pamphlet shall (a) explain that benefits provided under chapter 7.68 RCW are not available to pay for services provided under chapter 74.09 RCW and Title XIX of the Federal Social Security Act; (b) provide simple instructions to assist the applicant in completing the forms; and (c) provide the applicant information about where additional assistance is available if the instructions are not understood or if unusual circumstances exist.

WSR 89-14-124

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed July 5, 1989, 3:35 p.m.]

Original Notice.

Title of Rule: Chapter 296-62 WAC, General occupational health standards; chapter 296-65 WAC, Asbestos removal and encapsulation; and chapter 296-115 WAC, Passenger vessels.

Purpose: Chapters 296-62 and 296-65 WAC are being amended to comply with Washington State 1989 SSB 5681 relating to asbestos projects. Chapter 296-62 WAC is also being amended to adopt changes to be "identical" to Federal Register Volume 54, NO. 52 dated March 6, 1989, effecting hazardous waste operations and emergency response. Chapter 296-115 WAC is being amended to comply with Washington State SSB 5265 relating to the regulation of charter boats.

Other Identifying Information: Chapter 296-62 WAC, General occupational health standards, is amended with state-initiated changes to comply with Washington SSB 5681 which amends chapter 49.26 RCW relating to asbestos projects, and to correct specific terminology. Amended sections are WAC 296-62-07703, 296-62-07707, 296-62-07712, 296-62-07721 and 296-62-07753; chapter 296-65 WAC, Asbestos removal and encapsulation, is amended with state-initiated changes to comply with Washington SSB 5681 which amends chapter 49.26 RCW relating to asbestos projects to correct terminology, and to make new legislative requirements available in WAC standards for enforcement. Amended sections are WAC 296-65-001, 296-65-003, 296-65-005, 296-65-010, 296-65-015, 296-65-020, 296-65-025 and 296-65-030. New sections are WAC 296-65-007, 296-65-012, 296-65-017, 296-65-035 and 296-65-050; chapter 296-62 WAC, Occupational safety and health standards, is amended with federal-initiated changes to be "identical" to comparable federal final rule 29 CFR 1910.120, as published in Federal Register Volume 54, No. 42 dated March 6, 1989, and OSHA Instruction 2-1.154 amending rules affecting Hazardous Waste Operations and Emergency Response. The standard provides for employee protection during initial site characterization and analysis, monitoring activities, materials handling activities, training and emergency response for hazardous substance releases and spills. Coverage includes employees involved in responses covered by the Comprehensive Environmental Compensation and Liability Act of 1980 as amended (CERCLA or "Superfund" Act), the Conservation and Recovery Act of 1976 (RCRA and the Superfund Amendments and Reauthorization Act of 1988 (SARA) and is mandated by those acts. Amended sections are WAC 296-62-300, 296-62-3010, 296-62-3020, 296-62-3030, 296-62-3040, 296-62-3050, 296-62-3060, 296-62-3070, 296-62-3080, 296-62-3090, 296-62-3100, 296-62-3110, 296-62-3120, 296-62-3130, 296-62-3140, 296-62-3152, 296-62-3160, 296-62-3170, 296-62-3180 and 296-62-3190. New sections are WAC 296-62-3112 and 296-62-3138. The repealed section is WAC 296-62-3150; and chapter 296-115

WAC, Passenger vessels (inland), is amended with state-initiated changes to comply with Washington SSB 5265 which amends chapter 88.04 RCW relating to the regulation of charter boats. Amended sections are WAC 296-115-030 and 296-115-120.

Statutory Authority for Adoption: Chapters 34.05 and 49.17 RCW and chapter 1-12 [1-21] WAC.

Statute Being Implemented: RCW 49.17.040, 49.17-.050 and 49.17.060.

Summary: See above.

Reasons Supporting Proposal: To ensure a safe and healthful workplace for all employees in Washington state.

Name of Agency Personnel Responsible for Drafting: Ray Wax, 805 Plum Street S.E., Olympia, WA, 753-6500; Implementation and Enforcement: G. David Hutchins, 805 Plum Street S.E., Olympia, WA, 753-6500.

Name of Proponent: Department of Labor and Industries, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Four individual statements are shown below.

Rule is necessary because of federal law, for hazardous waste adoption Federal Register Volume 54, No. 42 dated March 6, 1989, Hazardous waste operations and emergency response, final rule.

Explanation of Rule, its Purpose, and Anticipated Effects: Amending WAC 296-62-07703, 296-62-07707, 296-62-07712, 296-62-07721 and 296-62-07753.

Proposal: Amend listed sections to be at-least-as-effective-as legislative changes to chapter 49.26 RCW in SSB 5681 (state-initiated change); and to also correct specified terminology.

Impact: These state-initiated changes impose new compliance requirements on the employer; specifically, those who engage in potential asbestos projects.

Rationale: WISHA is adopting changes in WAC 296-62-07703, 296-62-07707, 296-62-07712 (2) and (3) and 296-62-07721 in response to the passage of SSB 5681 which mandates the proposed changes. The change in WAC 296-62-07712 (1) and (4) is adopted in order to maintain the status at-least-as-effective-as the OSHA enforcement of safety and health regulations in the workplace.

Amending WAC 296-62-300, 296-62-3010, 296-62-3020, 296-62-3030, 296-62-3040, 296-62-3050, 296-62-3060, 296-62-3070, 296-62-3080, 296-62-3090, 296-62-3100, 296-62-3110, 296-62-3120, 296-62-3130, 296-62-3140, 296-62-3152, 296-62-3160, 296-62-3170, 296-62-3180 and 296-62-3190; new sections WAC 296-62-3112 and 296-62-3138; and repealing WAC 296-62-3150.

Proposal: To amend, adopt or repeal the listed sections to be "identical" to the comparable federal final rule (29 CFR 1910.120) as published in Federal Register Volume 54, No. 42 dated March 6, 1989, and in OSHA Instruction STP 2-1.154.

Impact: There may be an impact on some Washington employers in some labor markets as a consequence of the provision that only sufficiently experienced employees or

employees certified to have received necessary training will be allowed to perform work on hazardous waste site cleanups. Most of the other incremental costs of compliance will be paid by the federal government or the private firm responsible for the cleanup. There should not be any significant hardships as a result of adopting this rule since WISHA has a comparable standard currently in effect, and the amendments do not create any additional complex complications.

Rationale: WISHA is adopting the federal regulation to maintain its status at least as effective as the OSHA enforcement of safety and health regulations in the workplace.

Amending WAC 296-65-001, 296-65-003, 296-65-005, 296-65-010, 296-65-015, 296-65-020, 296-65-025 and 296-65-030; and new WAC 296-65-007, 296-65-012, 296-65-017, 296-65-035 and 296-65-050.

Proposal: To amend, adopt or repeal these sections as per the requirements of SSB 5681 which amends chapter 49.26 RCW relating to asbestos projects, to correct terminology, and to make new legislative requirements available in WAC standards for enforcement.

Impact: These state-initiated changes impose new compliance requirements on the employer. There will be an impact on employers who contract to do asbestos abatement projects as well as employers who are also building owners and who conduct asbestos abatement projects in their own facilities. Costs associated with the requirements that only properly certified contractors, workers, and/or supervisors conduct asbestos abatement projects will be borne primarily by the owners who contract this work. These costs will likely be offset by long-term savings associated with having jobs done properly the first time.

Rationale: WISHA is adopting these requirements in response to passage of SSB 5681 which mandates these amendments.

Amending WAC 296-115-030 and 296-115-120.

Proposal: To comply with Washington SSB 5265 which amends chapter 88.04 RCW relating to the regulation of charter boats.

Impact: These state-initiated changes impose new license requirements and increased fees on the employers.

Rationale: WISHA is adopting changes to fund safety compliance activities related to inspection of charter boats and to ensure the qualification of charter boat operators.

Proposal Changes the Following Existing Rules: See above.

Small Business Economic Impact Statement: The Washington Regulatory Fairness Act, chapter 19.85 RCW, requires that proposed rules which have an economic impact on more than twenty percent of all industries or more than ten percent of the businesses in any one industry shall be reviewed to determine if the cost of coming into compliance with the proposed agency rules will create a disproportionately higher economic burden on small businesses in comparison with the cost of compliance for large businesses. The act defines a small business as an employer with fifty or fewer employees.

With respect to the proposed amendment for chapter 296-62 WAC, WAC 296-62-07703, 296-62-07707, 296-62-07712, 296-62-07721 and 296-62-07753, the findings of the agency are as follows:

The proposed amendments to the rules impact all employers who may engage in potential asbestos projects having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The proposed rules do not place disproportionate burden on small business. Only employers having employees potentially exposed to asbestos fibers, a cancer-causing and debilitating disease-causing mineral, are affected by the rule.

Amendments are to implement statutory requirements enacted through SSB 5681 during the 1989 legislative session, and to maintain conformance with OSHA standards.

The administrative costs of these amendments are estimated to be less than fifty dollars per asbestos project conducted by each employer. It should be noted that the cost to implement the rules is significantly less than the cost would be to implement rules under SHB 1592, passed during the 1988 legislative session, and found technically unconstitutional.

With respect to the proposed amendment for chapter 296-62 WAC, WAC 296-62-300, 296-62-3010, 296-62-3020, 296-62-3030, 296-62-3050, 296-62-3060, 296-62-3070, 296-62-3080, 296-62-3090, 296-62-3100, 296-62-3110, 296-62-3120, 296-62-3130, 296-62-3140, 296-62-3152, 296-62-3160, 296-62-3170, 296-62-3180 and 296-62-3190; new sections WAC 296-62-3112 and 296-62-3138; and repealing WAC 296-62-3150, the findings of the agency are as follows:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The WAC is being amended to make the state regulation "identical" to federal final rule (29 CFR 1910.120) as published in Federal Register Volume 54, No. 42, dated March 6, 1989. This rule will regulate the safety and health of employees involved in government mandated cleanup operations at uncontrolled hazardous waste sites, in disposal operations conducted under the Resource Conservation and Recovery Act of 1976 as amended, and in an emergency response to incidents involving hazardous wastes. Detailed background and summary information of the standard may be found in 9294 and 9295 through 9311 FR 54 dated March 6, 1989.

The economic impact study prepared by the federal government to support the rule may be reviewed in 9312 FR 54 dated March 6, 1989. They indicate the largest annual cost of compliance will be the employee training provision followed by the medical surveillance provision, the use of escape self-contained breathing apparatus and the written plans required to minimize employee exposure during post-emergency cleanups of hazardous materials spills. Most of the incremental costs of compliance will be paid by the government or the private firm

responsible for the cleanup. There may be an impact upon some labor markets as a consequence of the provision that only sufficiently experienced employees or employees certified to have received necessary training will be allowed to perform work on the sites. This in turn, may increase future waste rates and the cost of hazardous waste site cleanups. The federal impact analysis should only be considered in the context of those specific changes which represent a substantially smaller impact to the state of Washington.

With respect to the proposed amendment for chapter 296-65 WAC, WAC 296-65-001, 296-65-003, 296-65-005, 296-65-010, 296-65-015, 296-65-020, 296-65-025 and 296-65-030 and new sections WAC 296-65-007, 296-65-012, 296-65-017, 296-65-035 and 296-65-050, the findings of the agency are as follows:

The proposed amendments to the rules impact all employers who may engage in potential asbestos projects having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The proposed rules do not place disproportionate burden on small business. Only employers having employees potentially exposed to asbestos fibers, a cancer-causing and debilitating disease-causing mineral, are affected by the rule.

Most changes are necessary to implement the provisions of SSB 5681 which was enacted during the 1989 legislative session. Other changes include clarification or refinements to existing rules. Changes to chapter 296-65 WAC establish new certification requirements for asbestos supervisors and contractors as well as establish a fee schedule for various certification.

Specific annual costs are worker certification (\$25), supervisor certification (\$35), contractor certification (\$1,000), and training course sponsor approval (\$1,000). These changes are per individual or employer, respectively.

An administrative fee of \$50 per individual for examinations administered by the department will be assessed. However, this change will only be made to those individuals who apply for certification outside the normal time frames or to those applying under reciprocity provisions.

Course fees are estimated to average \$400 per individual depending on provider for initial training and \$150 per individual for annual refresher training. Employer costs will also include salary, down time, per diem, and travel for individuals sent to training. Training covers 4 - 5 days for initial and 1 day for refresher not including any necessary travel time. These secondary overhead costs have not been estimated since some employers only hire pretrained employees, and the cost for others will vary on a case-by-case basis.

Other administrative costs such as paperwork filing, recordkeeping, reporting, etc., are estimated to average less than \$100 per employer per asbestos job.

Many of these costs would occur regardless of the proposed rules since training is needed and federal rules require employers and employees to be certified. SSB

5681 represents much less fiscal impact than SHB 1592, its forerunner.

With respect to the proposed amendment for chapter 296-115 WAC, WAC 296-115-030 and 296-115-120, the findings of the agency are as follows:

The proposed amendments to the rules impact all employers who may operate charter boats which are under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The proposed rules should not place a disproportionate burden on small business. The fees are based on boat size which relates directly to earning capability. The fee schedule will be reviewed after one year and adjustments made if necessary to remove any disproportionate financial burden.

Amendments are to implement statutory requirements enacted through SSB 5265 during the 1989 legislative session.

Hearing Location: GA Building Auditorium, 210 Eleventh Street, Olympia, Washington, on August 10, 1989, at 9:30 a.m.

Submit Written Comments to: G. David Hutchins, Assistant Director, Division of Industrial Safety and Health, by August 10, 1989.

Date of Intended Adoption: September 11, 1989.

July 5, 1989

Joseph A. Dear
Director

AMENDATORY SECTION (Amending Order 87-24 [89-03], filed 11/30/87 [5/15/89])

WAC 296-62-07703 DEFINITIONS. For the purpose of WAC 296-62-077 through 296-62-07753:

(1) "Action level" means an airborne concentration of asbestos of 0.1 fiber per cubic centimeter (f/cc) of air circulated as an eight-hour time-weighted average.

(2) "Air lock" means a system for ingress or egress to minimize air movement between a contaminated area and an uncontaminated area, consisting of an enclosure with two curtained doorways at least six feet apart unless space prohibits.

(3) "Asbestos" includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated and/or altered.

(4) "Authorized person" means any person authorized by the employer and required by work duties to be present in regulated areas.

(5) "Clean room" means an uncontaminated room having facilities for the storage of employees' street clothing and uncontaminated materials and equipment.

(6) ("Competent person" means one who is capable of identifying existing asbestos hazards in the workplace and who has the authority to take prompt corrective measures to eliminate them, as specified in WAC 296-155-012(4). The duties of the competent person include at least the following: Establishing the negative-pressure enclosure, ensuring its integrity, and controlling entry to and exit from the enclosure, supervising any employee exposure monitoring required by the standard, ensuring that all employees working within such an enclosure wear the appropriate personal protective equipment, are trained in the use of appropriate methods of exposure control, and use the hygiene facilities and decontamination procedures specified in the standard, and ensuring that engineering controls in use are in proper operating condition and are functioning properly. To be designated as a competent person, the worker must satisfactorily complete a training course in accordance with WAC 296-62-07712(3).)

"Certified asbestos supervisor" means an individual certified by the department under WAC 296-65-012. This person shall be capable of identifying existing asbestos hazards in the workplace and have the authority to take prompt corrective measures to eliminate them, as specified in WAC 296-62-020(6). The duties of the asbestos supervisor include at least the following: Establishing the negative pressure

enclosure, mini-enclosure, glove bag, or any other engineering control used in an asbestos removal or encapsulation operation; ensuring the integrity of the control being used; supervising any employee monitoring required by the standard; ensuring that all employees involved in removal or encapsulation of asbestos wear the appropriate protective equipment; are trained in the use of appropriate methods of exposure control, and use the hygiene facilities and decontamination procedures specified in the standard; and ensuring that engineering controls in use are in proper operating condition and are functioning properly.

(7) "Curtained doorway" means overlapping plastic sheeting curtains, at least four mils in thickness, constructed and used at entrance and exit of regulated areas, and designed to restrict the movement of air from one area to another.

(8) "Decontamination area" means an enclosed area adjacent and connected to the regulated area and consisting of an equipment room, shower area, and clean room, which is used for the decontamination of workers, materials, and equipment contaminated with asbestos.

(9) "Demolition" means the wrecking or taking out of any load-supporting structural member and any related razing, removing or stripping of asbestos products.

(10) "Department" means the department of labor and industries.

(11) "Director" means the director of the department of labor and industries or his/her authorized representatives.

(12) "Employee exposure" means that exposure to airborne asbestos that would occur if employee were not using respiratory protective equipment.

(13) "Equipment room" means a contaminated room located within the decontamination area that is supplied with impermeable bags or containers for the disposal of contaminated protective clothing and equipment.

(14) "Fiber" means a particulate form of asbestos, five micrometers or longer, with a length-to-diameter ratio of at least three to one.

(15) "High-efficiency particulate air (HEPA) filter" means a filter capable of trapping and retaining at least 99.97 percent of all monodispersed of 0.3 micrometers mean aerodynamic diameter or larger.

(16) "Regulated area" means an area established by the employer to demarcate areas where airborne concentrations of asbestos exceed, or can reasonably be expected to exceed, the permissible exposure limit. The regulated area may take the form of (a) a temporary enclosure, as required by WAC 296-62-07711, or (b) an area demarcated in any manner that minimizes the number of employees exposed to asbestos.

(17) "Removal" means the taking out or stripping of asbestos or materials containing asbestos.

(18) "Renovation" means the modifying of any existing structure, or portion thereof, where exposure to airborne asbestos may result.

(19) "Repair" means overhauling, rebuilding, reconstructing, or reconditioning of structure or substrates where asbestos is present.

(20) (~~"Small-scale, short duration operations" means tasks involving less than ten linear feet and less than eleven square feet of material. This means a total of eleven square feet of material whether on flat surfaces or not and includes pipes. Regardless of pipe diameter, runs cannot exceed ten linear feet.~~)

(21) "Structural member" means any load-supporting or nonload-supporting member of a facility such as beams, walls, and ceilings.

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.

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.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-62-07707 IDENTIFICATION. (~~The employer shall determine if materials to be worked on or removed contain asbestos. Determinations shall be documented (e.g., laboratory analysis report, manufacturer's product information), maintained on file and made available upon request to the director. A determination shall not be required when an employer assumes that the suspect material contains asbestos and handles the material in accordance with WAC 296-62-077 through 296-62-07753.~~) (1) Before authorizing or allowing any

construction, renovation, remodeling, maintenance, repair, or demolition project an owner or owner's agent shall perform or cause to be performed a good faith inspection to determine whether materials to be worked on or removed contain asbestos. The inspection shall be documented by written report maintained on file, and made available upon request to the director.

Note: Such good faith inspection is not required if the owner or owner's agent is reasonable certain that asbestos will not be disturbed by the project or the owner or owner's agent assumes that the suspect material contains asbestos and handles the material in accordance with WAC 296-62-077 through 296-62-07753.

(2) The owner or owner's agent shall make available to any contractor submitting a bid to undertake any construction, renovation, remodeling, maintenance, repair, or demolition project, the written report documenting the inspection required by subsection (1) of this section or a written statement either of the reasonable certainty of nondisturbance of asbestos or of assumption of the presence of asbestos.

(3) Any owner or owner's agent who fails to comply with subsection (1) and (2) of this section shall be subject to a mandatory fine of not less than two hundred fifty dollars for each violation. Each day the violation continues shall be considered a separate violation. In addition, any construction, renovation, remodeling, maintenance, repair, or demolition which was stated without meeting the requirements of this section shall be halted immediately and cannot be resumed before meeting such requirements.

(4) No contractor may commence any construction, renovation, remodeling, maintenance, repair, or demolition project with receiving a copy of the written response or statement required in subsection (2) of this section. Any contractor who begins any project without the copy of the written report or statement shall be subject to a mandatory fine of not less than two hundred fifty dollars per day. Each day the violation continues shall be considered a separate violation.

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.

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 87-24 [89-03], filed 11/30/87 [5/15/89])

WAC 296-62-07712 REQUIREMENTS FOR ASBESTOS REMOVAL, DEMOLITION, AND RENOVATION OPERATIONS. (1) (~~Except when proper glove bag techniques are used as described in Appendix J WAC 296-62-07753~~), the employer, wherever feasible, shall establish negative-pressure enclosures having a minimum of one air exchange every fifteen minutes within the enclosure before commencing removal, demolition, and renovation operations. A sufficient amount of air shall be exhausted to create a pressure of -0.02 inches of water within the enclosure with respect to the area outside the enclosure.

(2) The employer shall designate a certified asbestos supervisor (~~competent person to perform or~~) who shall perform, or directly supervise the following duties:

- (a) Set up the enclosure;
- (b) Ensure the integrity of the enclosure;
- (c) Control Entry to and exit from the enclosure;
- (d) Supervise all employee exposure monitoring required by this section;

(e) Ensure that employees working within the enclosure wear protective clothing and respirators as required by WAC 296-62-07715 and 296-62-07717;

(f) Ensure that employees are trained in the use of engineering controls, work practices, and personal protective equipment;

(g) Ensure that employees use the hygiene facilities and observe the decontamination procedures specified in WAC 296-62-07719; and

(h) Ensure that engineering controls including HEPA filters are functioning properly.

(3) In addition to the qualifications specified in WAC 296-62-07703, the certified asbestos supervisor (~~competent person~~) shall be

trained in all aspects of asbestos abatement, the contents of this standard, the identification of asbestos and their removal procedures, and other practices for reducing the hazard. Such training shall be obtained in a comprehensive course conducted by an approved asbestos supervisor course as specified in WAC 296-65-007. The certified asbestos supervisor shall meet all requirements as specified in WAC 296-65-012. ((an EPA asbestos training center, or an equivalent training course recognized by the department as complying with the requirements of this subsection. Every competent person shall also maintain a valid asbestos worker certificate as specified in WAC 296-62-010:))

(4) Exceptions:
 (a) For small-scale, short-duration operations, such as pipe repair, valve replacement, installing electrical conduits, installing or removing drywall, roofing, and other general building maintenance or renovation, the employer is not required to comply with the requirements of WAC 296-62-07712(1). Employers wishing to take advantage of the exemption in this subsection shall comply with WAC 296-62-07753, Appendix J.

(b) A certified asbestos supervisor shall not be required for projects consisting of less than 48 square feet or 10 lineal feet of asbestos containing material.

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.

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

AMENDATORY SECTION (Amending Order 87-24 [89-03], filed 11/30/87 [5/15/89])

WAC 296-62-07721 **COMMUNICATION OF HAZARDS TO EMPLOYEES.** (1) Upon written or oral request, a copy of the written report required in WAC 296-62-07707 and 296-65-020 shall be given to the collective bargaining representatives or employee representatives of any employee who may be exposed to any asbestos or asbestos-containing material. A copy of the written report shall be posted conspicuously at the location where employees report to work.

(2) **Warning Signs.**
 (a) Warning signs shall be provided and displayed at each regulated area. In addition, warning signs shall be posted at all approaches to regulated areas so that an employee may read the signs and take necessary protective steps before entering the area.

(b) The warning signs required by (a) of this subsection shall bear the following information:

DANGER
 ASBESTOS
 CANCER AND LUNG DISEASE HAZARD
 AUTHORIZED PERSONNEL ONLY
 RESPIRATORS AND PROTECTIVE CLOTHING ARE REQUIRED IN THIS AREA

(3) ((2)) **Warning labels.**

(a) Warning labels shall be affixed to all products containing asbestos including raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, and to their containers including waste containers. Where feasible, installed asbestos products shall contain a visible label.

(b) Labels shall be printed in large, bold letters on a contrasting background.

(c) The labels shall comply with the requirements of WAC 296-62-05411, and shall include the following information:

DANGER
 CONTAINS ASBESTOS FIBERS
 AVOID CREATING DUST
 CANCER AND LUNG DISEASE HAZARD
 AVOID BREATHING AIRBORNE ASBESTOS FIBERS

(d) Where minerals to be labeled are only tremolite, anthophyllite, or actinolite, the employer may replace the term "asbestos" with the appropriate mineral name.

(4) ((3)) **Material safety data sheets.** Employers who are manufacturers or importers of asbestos, or asbestos products shall comply with the requirements regarding development of material safety data sheets

as specified in WAC 296-62-05413, except as provided by subsection (5) ((4)) of this section.

(5) The provisions for labels required by subsection (3) of this section or for material safety data sheets required by subsection (4) of this section do not apply where:

(a) Asbestos fibers have been modified by a bonding agent, coating binder, or other material, provided that the manufacturer can demonstrate that during any reasonably foreseeable use, handling, storage disposal, processing, or transportation, no airborne concentrations of fibers of asbestos in excess of the action level and/or excursion limit will be released; or

(b) Asbestos is present in a product in concentrations less than 0.1 percent by weight.

(6) ((5)) **Employee information and training.**

(a) The employer shall institute a training program for all employees who are exposed to airborne concentrations of asbestos at or above the action level and/or excursion limit and ensure their participation in the program.

(b) Training shall be provided prior to or at the time of initial assignment, unless the employee has received equivalent training within the previous twelve months, and at least annually thereafter.

(c) The training program shall be conducted in a manner which the employee is able to understand. The employer shall ensure that each employee is informed of the following:

- (i) The health effects associated with asbestos;
- (ii) The relationship between smoking and exposure to asbestos in producing lung cancer;
- (iii) Methods of recognizing asbestos and the quantity, location, manner of use, release, and storage of asbestos and the specific nature of operations which could result in exposure to asbestos;
- (iv) The engineering controls and work practices associated with the employee's job assignment;
- (v) The specific procedures implemented to protect employees from exposure to asbestos such as appropriate work practices, housekeeping procedures, hygiene facilities, decontamination procedures, emergency and clean-up procedures, personal protective equipment to be used, and waste disposal procedures, and any necessary instructions in the use of these controls and procedures;
- (vi) The purpose, proper use, and limitations of respirators and protective clothing;
- (vii) The purpose and a description of the medical surveillance program required by WAC 296-62-07725; and
- (viii) The content of this standard, including appendices.

(d) Access to information and training materials.
 (i) The employer shall make a copy of this standard and its appendices readily available without cost to all affected employees.
 (ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(7) ((6)) **Certification.**

(a) All individuals working ((on)) or supervising asbestos projects, as defined in WAC 296-65-003(4) shall be certified as required by WAC 296-65-010, WAC 296-65-012, and WAC 296-65-030.

(b) In cases excepted under WAC 296-65-030 (2) ((1)) and (3) ((2)), all employees shall be trained according to subsection (6) ((5)) of this section.

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.

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

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-62-07753 **APPENDIX J—WORK PRACTICES AND ENGINEERING CONTROLS FOR SMALL-SCALE, SHORT-DURATION ASBESTOS RENOVATION AND MAINTENANCE ((OPERATIONS)) ACTIVITIES—NONMANDATORY.** This appendix is not mandatory, in that employers may choose to comply with all of the requirements of WISHA's standard for occupational exposure to asbestos during construction activities, WAC 296-62-077 through 296-62-07753. However, employers wishing to

be exempted from the requirements of WAC 296-62-07712 shall comply with the provisions of this appendix when performing small-scale, short-duration renovation or maintenance operations. WISHA anticipates that employers in the electrical, carpentry, utility, plumbing, and interior construction trades may wish to avail themselves of the final standard's exemptions for small-scale, short-duration renovation and maintenance ((operations)) activities.

(1) Definition of small-scale, short-duration ((operations)) activities. For the purposes of this appendix, small-scale, short-duration renovation and maintenance activities are tasks ((involving less than ten linear feet and less than eleven square feet of material. This means a total of eleven square feet of material whether on flat surfaces or not and includes pipes. Regardless of pipe diameter, runs cannot exceed ten linear feet. The tasks include)) such as, but ((are)) not limited to:

- Removal of asbestos-containing insulation on pipes;
- Removal of small quantities of asbestos-containing insulation on beams or above ceilings;
- Replacement of an asbestos-containing gasket on a valve;
- Installation or removal of a small section of drywall;
- Installation of electrical conduits through or proximate to asbestos-containing materials.

Evidence in the record suggests that the use of certain engineering and work practice controls is capable of reducing employee exposures to asbestos to levels below the action level (0.1 f/cc). Several controls and work practices, used either singly or in combination, can be employed effectively to reduce asbestos exposures during small maintenance and renovation operations. These include:

- Wet methods;
- Removal methods;
- Use of glove bags;
- Removal of entire asbestos insulated pipes or structures;
- Use of mini-enclosures;
- Enclosure of asbestos materials; and
- Maintenance programs.

This appendix describes these controls and work practices in detail.

(2) Preparation of the area before renovation or maintenance activities. The first step in preparing to perform a small-scale, short-duration asbestos renovation or maintenance task, regardless of the abatement method that will be used, is the removal from the work area of all objects that are movable to protect them from asbestos contamination. Objects that cannot be removed must be covered completely with a 6-mil-thick polyethylene plastic sheeting before the task begins. If objects have already been contaminated, they should be thoroughly cleaned with a high-efficiency particulate air (HEPA) filtered vacuum or be wet wiped before they are removed from the work area or completely encased in the plastic.

(3) Wet methods. Whenever feasible, and regardless of the abatement method to be used (e.g., removal, enclosure, use of glove bags), wet methods must be used during small-scale, short-duration maintenance and renovation activities that involve disturbing asbestos-containing materials. Handling asbestos materials wet is one of the most reliable methods of ensuring that asbestos fibers do not become airborne, and this practice should therefore be used whenever feasible. Wet methods can be used in the great majority of workplace situations. Only in cases where asbestos work must be performed on live electrical equipment, on live steam lines, or in other areas where water will seriously damage materials or equipment may dry removal be performed. Amended water or another wetting agent should be applied by means of an airless sprayer to minimize the extent to which the asbestos-containing material is disturbed.

Asbestos-containing materials should be wetted from the initiation of the maintenance or renovation operation and wetting agents should be used continually throughout the work period to ensure that any dry asbestos-containing material exposed in the course of the work is wet and remains wet until final disposal.

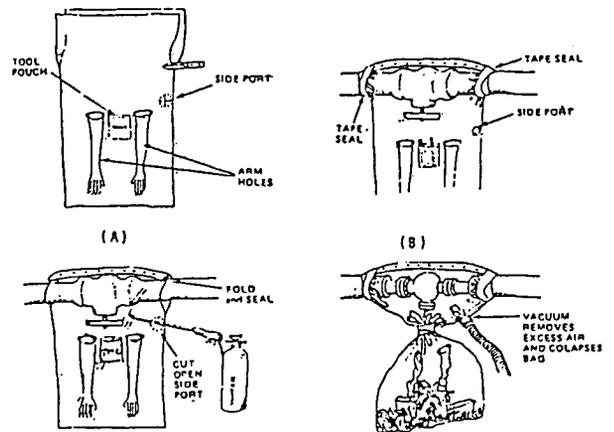
(4) Removal of small amount of asbestos-containing materials. Several methods can be used to remove small amounts of asbestos-containing materials during small-scale, short-duration renovation or maintenance tasks. These include the use of glove bags, the removal of an entire asbestos-covered pipe or structure, and the construction of mini-enclosures. The procedures that employers must use for each of these operations if they wish to avail themselves of the final rule's exemptions are described in the following subsections.

(5) Glove bags. The use of glove bags to enclose the work area during small-scale, short-duration maintenance or renovation activities will result in employee exposures to asbestos that are below the action level of 0.1 f/cc. This appendix provides requirements for glove bag

procedures to be followed by employers wishing to avail themselves of the standard's exemptions for each activities. WISHA has determined that the use of these procedures will reduce the eight-hour time-weighted average (TWA) exposures of employees involved in these work operations to levels below the action level and will thus provide a degree of employee protection equivalent to that provided by compliance with all provisions of the final rule.

(a) Glove bag installation. Glove bags are approximately forty-inch-wide times sixty-four-inch-long bags fitted with arms through which the work can be performed (see Figure J-1(A)). When properly installed and used, they permit workers to remain completely isolated from the asbestos material removed or replaced inside the bag. Glove bags can thus provide a flexible, easily installed, and quickly dismantled temporary small work area enclosure that is ideal for small-scale asbestos renovation or maintenance jobs.

Figure J-1. Diagrams showing proper use of glove bags in small-scale, short-duration maintenance and renovation operations



These bags are single use control devices that are disposed of at the end of each job. The bags are made of transparent 6-mil-thick polyethylene plastic with arms made of material such as Tyvek* (the same material used to make the disposable protective suits used in major asbestos removal, renovation, and demolition operations and in protective gloves). Glove bags are readily available from safety supply stores or specialty asbestos removal supply houses. Glove bags come pre-labeled with the asbestos warning label prescribed by WISHA and EPA for bags used to dispose of asbestos waste.

(b) Glove bag equipment and supplies. Supplies and materials that are necessary to use glove bags effectively include:

- (i) Tape to seal the glove bag to the area from which asbestos is to be removed;
- (ii) Amended water or other wetting agents;
- (iii) An airless sprayer for the application of the wetting agent;
- (iv) Bridging encapsulant (a paste-like substance for coating asbestos) to seal the rough edges of any asbestos-containing materials that remain within the glove bag at the points of attachment after the rest of the asbestos has been removed;
- (v) Tools such as razor knives, nips, and wire brushes (or other tools suitable for cutting wire, etc.);
- (vi) A HEPA filter-equipped vacuum for evacuating the glove bag (to minimize the release of asbestos fibers) during removal of the bag from the work area and for cleaning any material that may have escaped during the installation of the glove bag; and
- (vii) HEPA-equipped cartridge respirators for use by the employees involved in the removal of asbestos with the glove bag.

(c) Glove bag work practices. The proper use of glove bags requires the following steps:

- (i) Glove bags must be installed so that they completely cover the pipe or other structure where asbestos work is to be done. Glove bags are installed by cutting the sides of the glove bag to fit the size of the pipe from which asbestos is to be removed. The glove bag is attached to the pipe by folding the open edges together and securely sealing them with tape. All openings in the glove bag must be sealed with duct tape or equivalent material. The bottom seam of the glove bag must also be sealed with duct tape or equivalent to prevent any leakage from

the bag that may result from a defect in the bottom seam (Figure J-1(B)).

(ii) The employee who is performing the asbestos removal with the glove bag must don a half-mask dual-cartridge HEPA-equipped respirator; respirators and protective clothing should be worn by employees who are in close contact with the glove bag and who may thus be exposed as a result of small gaps in the seams of the bag or holes punched through the bag by a razor knife or a piece of wire mesh.

(iii) The removed asbestos material from the pipe or other surface that has fallen into the enclosed bag must be thoroughly wetted with a wetting agent (applied with an airless sprayer through the precut port provided in most glove bags or applied through a small hole cut in the bag) (Figure J-1(C)).

(iv) Once the asbestos material has been thoroughly wetted, it can be removed from the pipe, beam or other surface. The choice of tool to use to remove the asbestos-containing material depends on the type of material to be removed. Asbestos-containing materials are generally covered with painted canvas and/or wire mesh. Painted canvas can be cut with a razor knife and peeled away from the asbestos-containing material underneath. Once the canvas has been peeled away, the asbestos-containing material underneath may be dry, in which case it should be resprayed with a wetting agent to ensure that it generates as little dust as possible when removed. If the asbestos-containing material is covered with wire mesh, the mesh should be cut with nips, tin snips, or other appropriate tool and removed.

A wetting agent must then be used to spray any layer of dry material that is exposed beneath the mesh, the surface of the stripped underlying structure, and the inside of the glove bag.

(v) After removal of the layer of asbestos-containing material, the pipe or surface from which asbestos has been removed must be thoroughly cleaned with a wire brush and wet wiped with a wetting agent until no traces of the asbestos-containing material can be seen.

(vi) Any asbestos-containing insulation edges that have been exposed as a result of the removal or maintenance activity must be encapsulated with bridging encapsulant to ensure that the edges do not release asbestos fibers to the atmosphere after the glove bag has been removed.

(vii) When the asbestos removal and encapsulation have been completed, a vacuum hose from a HEPA-filtered vacuum must be inserted into the glove bag through the port to remove any air in the bag that may contain asbestos fibers. When the air has been removed from the bag, the bag should be squeezed tightly (as close to the top as possible), twisted, and sealed with tape, to keep the asbestos materials safely in the bottom of the bag. The HEPA vacuum can then be removed from the bag and the glove bag itself can be removed from the work area to be disposed of properly (Figure J-1(D)).

area where small-scale, short-duration asbestos maintenance or renovation work is to be performed (Figure J-2). Such an enclosure should be constructed of 6-mil-thick polyethylene plastic sheeting and can be small enough to restrict entry to the asbestos work area to one worker.

For example, a mini-enclosure can be built in a small utility closet when asbestos-containing duct covering is to be removed. The enclosure is constructed by:

- (a) Affixing plastic sheeting to the walls with spray adhesive and tape;
- (b) Covering the floor with plastic and sealing the plastic covering the floor to the plastic on the walls;
- (c) Sealing any penetrations such as pipes or electrical conduits with tape; and
- (d) Constructing a small change room (approximately three feet square) made of 6-mil-thick polyethylene plastic supported by two-inch by four-inch lumber (the plastic should be attached to the lumber supports with staples or spray adhesive and tape).

The change room should be contiguous to the mini enclosure, and is necessary to allow the worker to vacuum off his protective coveralls and remove them before leaving the work area. While inside the enclosure, the worker should wear Tyvek¹ disposable coveralls and use the appropriate HEPA filtered dual cartridge respiratory protection.

The advantages of mini-enclosures are that they limit the spread of asbestos contamination, reduce the potential exposure of bystanders and other workers who may be working in adjacent areas, and are quick and easy to install. The disadvantage of mini-enclosures is that they may be too small to contain the equipment necessary to create a negative pressure within the enclosure; however, the double layer of plastic sheeting will serve to restrict the release of asbestos fibers to the area outside the enclosure.

(7) Removal of entire structures. When pipes are insulated with asbestos-containing materials, removal of the entire pipe may be more protective, easier, and more cost-effective than stripping the asbestos insulation from the pipe. Before such a pipe is cut, the asbestos-containing insulation must be wrapped with 6-mil polyethylene plastic and securely sealed with duct tape or equivalent. This plastic covering will prevent asbestos fibers from becoming airborne as a result of the vibration created by the power saws used to cut the pipe. If possible, the pipes should be cut at locations that are not insulated to avoid disturbing the asbestos. If a pipe is completely insulated with asbestos-containing materials, small sections should be stripped using the glove-bag method described above before the pipe is cut at the stripped sections.

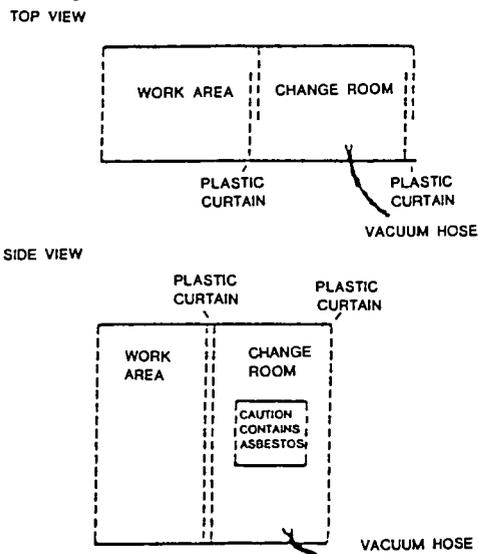
(8) Enclosure. The decision to enclose rather than remove asbestos-containing material from an area depends on the building owner's preference, i.e., for removal or containment. Owners consider such factors as cost effectiveness, the physical configuration of the work area, and the amount of traffic in the area when determining which abatement method to use.

If the owner chooses to enclose the structure rather than to remove the asbestos-containing material insulating it, a solid structure (air-tight walls and ceilings) must be built around the asbestos covered pipe or structure to prevent the release of asbestos-containing materials into the area beyond the enclosure and to prevent disturbing these materials by casual contact during future maintenance operations.

Such a permanent (i.e., for the life of the building) enclosure should be built of new construction materials and should be impact resistant and airtight. Enclosure walls should be made of tongue-and-groove boards, boards with spine joints, or gypsum boards having taped seams. The underlying structure must be able to support the weight of the enclosure. (Suspended ceilings with laid in panels do not provide airtight enclosures and should not be used to enclose structures covered with asbestos-containing materials.) All joints between the walls and ceiling of the enclosure should be caulked to prevent the escape of asbestos fibers. During the installation of enclosures, tools that are used (such as drills or rivet tools) should be equipped with HEPA-filtered vacuums. Before constructing the enclosure, all electrical conduits, telephone lines, recessed lights, and pipes in the area to be enclosed should be moved to ensure that the enclosure will not have to be reopened later for routine or emergency maintenance. If such lights or other equipment cannot be moved to a new location for logistic reasons, or if moving them will disturb the asbestos-containing materials, removal rather than enclosure of the asbestos-containing materials is the appropriate control method to use.

(9) Maintenance program. An asbestos maintenance program must be initiated in all facilities that have asbestos-containing materials. Such a program should include:

Figure J-2. Schematic of mini-enclosure



(6) Mini-enclosures. In some instances, such as removal of asbestos from a small ventilation system or from a short length of duct, a glove bag may not be either large enough or of the proper shape to enclose the work area. In such cases, a mini-enclosure can be built around the

Development of an inventory of all asbestos-containing materials in the facility;

Periodic examination of all asbestos-containing materials to detect deterioration;

Written procedures for handling asbestos materials during the performance of small-scale, short-duration maintenance and renovation activities;

Written procedures for asbestos disposal; and

Written procedures for dealing with asbestos-related emergencies.

Members of the building's maintenance engineering staff (electricians, heating/air conditioning engineers, plumbers, etc.) who may be required to handle asbestos-containing materials should be trained in safe procedures. Such training should include at a minimum:

Information regarding types of asbestos and its various uses and forms;

Information on the health effects associated with asbestos exposure; Descriptions of the proper methods of handling asbestos-containing materials; and

Information on the use of HEPA-equipped dual cartridge respiratory and other personal protection during maintenance activities.

(10) Prohibited activities. The training program for the maintenance engineering staff should describe methods of handling asbestos-containing materials as well as routine maintenance activities that are prohibited when asbestos-containing materials are involved. For example, maintenance staff employees should be instructed:

Not to drill holes in asbestos-containing materials;

Not to hang plants or pictures on structures covered with asbestos-containing materials;

Not to sand asbestos-containing floor tile;

Not to damage asbestos-containing materials while moving furniture or other objects;

Not to install curtains, drapes, or dividers in such a way that they damage asbestos-containing materials;

Not to dust floors, ceilings, moldings or other surfaces in asbestos-contaminated environments with a dry brush or sweep with a dry broom;

Not to use an ordinary vacuum to clean up asbestos-containing debris;

Not to remove ceiling tiles below asbestos-containing materials without wearing the proper respiratory protection, clearing the area of other people, and observing asbestos removal waste disposal procedures;

Not to remove ventilation system filters dry; and

Not to shake ventilation system filters.

* Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

1 Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-300 SCOPE, APPLICATION, AND DEFINITIONS. (1) ~~(Scope for operations other than emergency response. This section covers employers and employees engaged in the following operations:~~

~~(a) Hazardous substance response operations that are conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended (42 U.S.C. 9601 et seq.) (CERCLA), including initial investigations at CERCLA sites before the presence or absence of hazardous substances has been ascertained;~~

~~(b) Major corrective actions taken in clean-up operations under the Resource Conservation and Recovery Act of 1976 as amended (42 U.S.C. 6901 et seq.) (RCRA);~~

~~(c) Operations involving hazardous waste storage, disposal, and treatment facilities regulated under WAC 173-303-400 pursuant to RCRA;~~

~~(d) Hazardous waste operations sites that have been designated for clean-up by state or local governmental authorities; and~~

~~(2) Scope for emergency response operations. This section also covers employers whose employees have a reasonable possibility of engaging in) Scope. This section covers the following operations, unless the employer can demonstrate that the operation does not involve employee exposure or the reasonable possibility for employee exposure to safety or health hazards:~~

~~(a) Clean-up operations required by a governmental body, whether federal, state, local, or other involving hazardous substances that are~~

~~conducted at uncontrolled hazardous waste sites (including, but not limited to, the EPA's National Priority Site List (NPL), state priority site lists, sites recommended for the EPA NPL, and initial investigations of government identified sites which are conducted before the presence or absence of hazardous substances has been ascertained);~~

~~(b) Corrective actions involving clean-up operations at sites covered by the Resource Conservation and Recovery Act of 1976 (RCRA) as amended (42 U.S.C. 6901 et seq.);~~

~~(c) Voluntary clean-up operations at sites recognized by federal, state, local, or other governmental bodies as uncontrolled hazardous waste sites;~~

~~(d) Operations involving hazardous wastes that are conducted at treatment, storage, and disposal (TSD) facilities regulated by 40 CFR Parts 264 and 265 pursuant to RCRA; or by agencies under agreement with U.S.E.P.A. to implement RCRA regulations; and~~

~~(e) Emergency response operations for releases of, or substantial threats of releases of, hazardous substances without regard to the location of the hazard.~~

~~((+)) (2) Application.~~

~~(a) All requirements of this chapter and chapters 296-24 and 296-155 WAC apply pursuant to their terms to hazardous waste and emergency response operations whether covered by this part or not. ((In addition, the provisions of this part apply to operations covered by this part:)) If there is a conflict or overlap, the provision more protective of employee safety and health shall apply.~~

~~(b) ((All sections of this part except WAC 296-62-3110 and 296-62-3140 apply to operations involving hazardous substances conducted under CERCLA, major corrective actions taken in clean-up operations under RCRA, and hazardous waste operations that have been designated for clean-up by state or local governmental authorities.~~

~~(c) Only the requirements of WAC 296-62-3110 and 296-62-3140 apply to those operations involving hazardous waste storage, disposal, and treatment facilities regulated under WAC 173-303-400:)) Hazardous substance clean-up operations within the scope of subsection (1)(a), (b), and (c) of this section must comply with all sections (WAC 296-62-300 through 296-62-3145) except WAC 296-62-3140, 296-62-3110 (4) and (5), and 296-62-3112.~~

~~(c) Operations within the scope of subsection (1)(d) of this section must comply only with the requirements of WAC 296-62-3140 and 296-62-3110 (4) and (5).~~

Exceptions: For large quantity generators of hazardous waste who store those wastes less than 90 days and for small quantity generators ((and generators with less than ninety days accumulation)) of hazardous wastes, who have emergency response teams that respond to releases of, or substantial threats of releases of, hazardous substances, for their RCRA workplaces only WAC 296-62-3110(5) is applicable. ((Small quantity generators and generators with less than ninety days accumulation)) Generators of hazardous wastes who do not have emergency response teams that respond to releases of, or substantial threats of releases of, hazardous substances are exempt from the ((regulations)) requirements of this section.

~~(d) ((WAC 296-62-3110 applies to all)) Emergency response operations for releases of, or substantial threats of releases of hazardous substances ((including those releases of or substantial threats of releases that occur at worksites other than those sites identified in (a) through (c) of this subsection)) which are not covered by subsection (1)(a) through (d) of this section must only comply with the requirements of WAC 296-62-3112.~~

~~((+)) (3) Definitions.~~

~~(a) "Buddy system" means a system of organizing employees into work groups in such a manner that each employee of the work group is designated to ((observe the activities of)) be observed by at least one other employee in the work group. The purpose of the buddy system is to provide ((quick)) rapid assistance to ((those other)) employees in the event of an emergency.~~

~~(b) "Clean-up operation" means an operation where hazardous substances are removed, contained, incinerated, neutralized, stabilized, cleared-up, or in any other manner processed or handled with the ultimate goal of making the site safer for people or the environment.~~

~~(c) "Decontamination" means the removal of hazardous substances from employees and their equipment to the extent necessary to preclude the occurrence of foreseeable adverse health effects.~~

~~((+)) (d) "Emergency response" or "responding to emergencies" means a ((coordinated)) response effort by employees from outside the immediate release area or by ((outside)) other designated responders (i.e., mutual aid groups, local fire departments, etc.) to an occurrence~~

which results, or is likely to result, in an uncontrolled release of a hazardous substance. Responses to incidental releases of hazardous substances where the substance can be absorbed, neutralized, or otherwise controlled at the time of release by employees in the immediate release area or by maintenance personnel are not considered to be emergency responses within the scope of this standard. Responses to release of hazardous substances where ~~((the concentration of hazardous substance is below the established permissible exposure limits established in this standard))~~ there is no potential safety or health hazard (i.e., fire, explosion, or chemical exposure) are not considered to be emergency responses.

~~((d)) "Established exposure levels" means the inhalation or dermal permissible exposure limit specified, in this chapter, or if none is specified, the exposure limits in "NIOSH Recommendations for Occupational Health Standards" dated 1986 incorporated by reference, or if neither of the above is specified, the standards specified by the American Conference of Governmental Industrial Hygienists in their publication "Threshold Limit Values and Biological Exposure Indices for 1986-87 dated 1986" incorporated by reference. The two documents incorporated by reference are available for purchase from the following:~~

~~NIOSH, Publications Dissemination, Division of Standards Development and Technology Transfer, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, Cincinnati, OH 45226, (513) 841-4287, and~~

~~American Conference of Governmental Industrial Hygienists, 6500 Glenway Ave., Building D-7, Cincinnati, OH 45211-4438, (513) 661-7881 and are available for inspection and copying at the OSHA Docket Office, Docket No. S-760, Room N-3671, 200 Constitution Ave., N.W., Washington, DC 20210.)~~

(e) "Facility" means (i) any building structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly-owned treatment works), well, pit, pond, lagoon, impoundment, ditch, storage container, motor vehicle, rolling stock, or aircraft, or (ii) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any water-borne vessel.

(f) "Hazardous materials response (HAZMAT) team" means an organized group of employees, designated by the employer, who are ~~((knowledgeable and specifically trained and skilled))~~ expected to perform work, to handle and control ~~((leaking containers or vessels, use and select special chemical protective clothing and perform other duties associated with accidental releases of hazardous substances))~~ actual or potential leaks or spills of hazardous substances requiring possible close approach to the substance. The team members perform responses to releases or potential releases of hazardous substances for the purpose of control or stabilization of the ~~((release))~~ incident. A HAZMAT team is not a fire brigade nor is a typical fire brigade a HAZMAT team. A HAZMAT team, however, may be a separate component of a fire brigade or fire department.

(g) "Hazardous substance" means any substance designated or listed under (g)(i) through (iv) of this subsection, exposure to which results or may result in adverse effects on the health or safety of employees:

(i) Any substance defined under section 101(14) of CERCLA;

(ii) Any biological agent and other disease-causing agent as defined in section 101(33) of CERCLA;

(iii) Any substance listed by the United States Department of Transportation ~~((and regulated))~~ as hazardous materials under WAC 480-12-195; and

(iv) Hazardous waste as herein defined.

(h) "Hazardous waste" means:

(i) A waste or combination of wastes as defined in WAC 173-303-040; or

(ii) Those substances defined in WAC 480-12-195.

(i) "Hazardous waste operation" means any operation conducted within the scope of this standard ~~((involving employee exposure to hazardous wastes, hazardous substances, or any combination of hazardous wastes and hazardous substances))~~.

(j) "Hazardous waste site" or "site" means any facility or location within the scope of this standard at which hazardous waste operations take place.

(k) "Health hazard" means a chemical, mixture of chemicals, or a pathogen for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed

employees. The term "health hazard" includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes. It also includes stress due to temperature extremes. Further definition of the terms used above can be found in Appendix A to WAC 296-62-054 through 296-62-05427.

(l) "IDLH" or "immediately dangerous to life or health" means any atmospheric concentration of any toxic, corrosive, or asphyxiant substance that poses an immediate threat to life or would cause irreversible or delayed adverse health effects or would interfere with an individual's ability to escape from a dangerous atmosphere.

(m) "Oxygen deficiency" means that concentration of oxygen by volume below which ~~((at))~~ atmosphere supplying respiratory protection must be provided. It exists in atmospheres where the percentage of oxygen by volume is less than 19.5 percent oxygen.

(n) "Permissible exposure limit" means the exposure, inhalation, or dermal permissible limit specified in WAC 296-62-075 through 296-62-07515.

(o) "Published exposure level" means the exposure limits published in "NIOSH Recommendations for Occupational Health Standards" dated 1986 incorporated by reference, or if none is specified, the exposure limits published in the standards specified by the American Conference of Governmental Industrial Hygienists in their publication "Threshold Limit Values and Biological Exposure Indices for 1988-89" dated 1988 incorporated by reference.

(p) "Post emergency response" means that portion of an emergency response performed after the immediate threat of a release has been stabilized or eliminated and clean-up of the site has begun. If post emergency response is performed by an employer's own employees ~~((as a continuation))~~ who were part of the initial emergency response, it is considered to be part of the initial response and not post emergency response. However, if a group of an employer's own employees, separate from the group providing initial response, performs the clean-up operation, then the separate group of employees would be considered to be performing post-emergency response and subject to WAC 296-62-312(11).

~~((r))~~ (q) "Qualified person" means a person with specific training, knowledge, and experience in the area for which the person has responsibility and the authority to control.

~~((s))~~ (r) "Site safety and health supervisor (or official)" means the individual located on a hazardous waste site who is responsible to the employer and has the authority and knowledge necessary to implement the site safety and health plan and verify compliance with applicable safety and health requirements.

~~((t))~~ (s) "Small quantity generator" means a generator of hazardous wastes who in any calendar month generates no more than 1000 kilograms ~~((2210))~~ 2205 pounds of hazardous waste in that month.

(t) "Uncontrolled hazardous waste site" means an area where an accumulation of hazardous waste creates a threat to the health and safety of individuals or the environment or both. Some sites are found on public lands, such as those created by former municipal, county, or state landfills where illegal or poorly managed waste disposal has taken place. Other sites are found on private property, often belonging to generators or former generators of hazardous waste. Examples of such sites include, but are not limited to, surface impoundments, landfills, dumps, and tank or drum farms. Normal operations at TSD sites are not covered by this definition.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3010 ~~((GENERAL REQUIREMENTS))~~ SAFETY AND HEALTH PROGRAM. ~~((+) Safety and health program: (a))~~

Note: Safety and health programs developed and implemented to meet other federal, state, or local regulations are considered acceptable in meeting this requirement if they cover or are modified to cover the topics required in this section. An additional or separate safety and health program is not required by this section.

(1) General.

(a) Employers shall develop and implement a written safety and health program for their employees involved in hazardous waste operations. The program shall be designed to identify, evaluate, and control safety and health hazards and provide for emergency response for hazardous waste operations.

(b) The written safety and health program shall incorporate ~~((as a separate chapter))~~ the following:

- ~~((i))~~ (i) An organizational structure ~~((chapter))~~;
- ~~((ii))~~ (ii) A comprehensive workplan ~~((chapter, and))~~;
- ~~((iii))~~ (iii) A site-specific safety and health plan ~~((chapter))~~ which need not repeat the employer's standard operating procedures required in ~~(b)(vi)~~ of this subsection;
- ~~((iv))~~ (iv) The safety and health training program;
- ~~((v))~~ (v) The medical surveillance program;
- ~~((vi))~~ (vi) The employer's standard operating procedures for safety and health; and
- ~~((vii))~~ (vii) Any necessary interface between general program and site specific activities.

~~(c) Site excavation. Site excavations created during initial site preparation or during hazardous waste operations shall be shored or sloped as appropriate to prevent accidental collapse in accordance with subpart N of chapter 296-155 WAC.~~

~~(d) Contractors and subcontractors. An employer who retains contractor or subcontractor services for work in hazardous waste operations shall inform those contractors, subcontractors, or their representatives of the site emergency response procedures and any potential fire, explosion, health, safety, or other hazards of the hazardous waste operation that have been identified by the employer, including those identified in the employer's information program.~~

~~(e) Program availability. The written safety and health program shall be made available to any contractor or subcontractor or their representative who will be involved with the hazardous waste operation; to employees; to employee designated representatives; to WISHA personnel, and to personnel of other federal, state, or local agencies with regulatory authority over the site.~~

~~(2) Organizational structure ((chapter)) part of the site program.~~

~~((i)) (a) The organizational structure ((chapter)) part of the program shall establish the specific chain of command and specify the overall responsibilities of supervisors and employees. It shall include at a minimum, the following elements:~~

- ~~((i)) (i) A general supervisor who has the responsibility and authority to direct all hazardous waste operations.~~
- ~~((ii)) (ii) A site safety and health supervisor who has the responsibility and authority to develop and implement the site safety and health plan and verify compliance.~~
- ~~((iii)) (iii) All other personnel needed for hazardous waste site operations and emergency response and their general functions and responsibilities.~~
- ~~((iv)) (iv) The lines of authority, responsibility, and communication.~~

~~((v)) (b) The organizational structure shall be reviewed and updated as necessary to reflect the current status of waste site operations.~~

~~((vi)) (c) The original organizational structure plan and any changes to the overall organizational structure shall be made available to all affected employees.~~

~~((vii)) (3) Comprehensive workplan ((chapter)) part of the site program. The comprehensive workplan ((chapter)) shall address the tasks and objectives of site operations and the logistics and resources required to reach those tasks and objectives.~~

~~((i)) (a) The comprehensive workplan shall address anticipated clean-up activities as well as normal operating procedures which need not repeat the employers procedures available elsewhere.~~

~~((ii)) (b) The comprehensive workplan shall define work tasks and objectives and identify the methods for accomplishing those tasks and objectives.~~

~~((iii)) (c) The comprehensive workplan shall establish personnel requirements for implementing the plan.~~

~~((iv)) (d) The comprehensive workplan shall provide for the implementation of the training required in WAC 296-62-3040.~~

~~((v)) (e) The comprehensive workplan shall provide for the implementation of the required informational programs required in WAC 296-62-3080.~~

~~((vi)) (f) The comprehensive workplan shall provide for the implementation of the medical surveillance program described in WAC 296-62-3050.~~

~~((vii)) (4) Site-specific safety and health plan ((chapter)) part of the program.~~

~~(a) General. The site safety and health plan, which ((is part of the overall safety and health program shall be available on the site for inspection by employees, their designated representatives, and WISHA personnel)) must be kept on site, shall address the safety and health~~

hazards of each phase of site operation; and include the requirements and procedures for employee protection.

~~((i)) (b) Elements. The site safety and health plan, as a minimum, shall address the following:~~

~~((i)) (i) Names of key personnel and alternates responsible for site safety and health, including a site safety and health supervisor.~~

~~((ii)) (ii) A safety and health risk or hazard analysis for each site task and operation found in the workplan.~~

~~((iii)) (iii) Employee training assignments to assure compliance with WAC 296-62-3040.~~

~~((iv)) (iv) Personal protective equipment to be used by employees for each of the site tasks and operations being conducted as required by the personal protective equipment program in WAC 296-62-3060(5).~~

~~((v)) (v) Medical surveillance requirements in accordance with the program in WAC 296-62-3050.~~

~~((vi)) (vi) Frequency and types of air monitoring, personnel monitoring, and environmental sampling techniques and instrumentation to be used, including methods of maintenance and calibration of monitoring and sampling equipment to be used.~~

~~((vii)) (vii) Site control measures in accordance with the site control program required in WAC 296-62-3030.~~

~~((viii)) (viii) Decontamination procedures in accordance with WAC 296-62-3100.~~

~~((ix)) (ix) An emergency response plan meeting the requirements of WAC 296-62-3110 for safe and effective responses to emergencies, including the necessary PPE and other equipment.~~

~~((x)) (x) Confined space entry procedures.~~

~~((xi)) (ii) Preentry briefings shall be held prior to initiating any site activity and at such other times as necessary to ensure that employees are apprised of the site safety and health plan and that this plan is being followed:~~

~~((i)) (xi) A spill containment program meeting the requirements of WAC 296-62-3090.~~

~~(c) Preentry briefing. The site specific safety and health plan shall provide for preentry briefings to be held prior to initiating any site activity, and at such other times as necessary to ensure that employees are apprised of the site safety and health plan and that this plan is being followed. The information and data obtained from site characterization and analysis work required in WAC 296-62-3020 shall be used to prepare and update the site safety and health plan.~~

~~(d) Effectiveness of site safety and health plan. Inspections shall be conducted by the site safety and health supervisor or, in the absence of that individual, another individual who is knowledgeable in occupational safety and health acting on behalf of the employer as necessary to determine the effectiveness of the site safety and health plan. Any deficiencies in the effectiveness of the site safety and health plan shall be corrected by the employer.~~

~~((iv)) (iv) When major spills may be anticipated due to the type of work involved, a spill containment program meeting the requirements of WAC 296-62-3080.~~

~~(2) Site excavation. Site excavations created during initial site preparation or during hazardous waste operations shall be shored or sloped as appropriate to prevent accidental collapse in accordance with WAC 296-155-650 through 296-155-66505.~~

~~(3) Contractors and subcontractors:~~

~~(a) An employer who retains contractor or subcontractor services for work in hazardous waste operations shall inform those contractors, subcontractors, or their representatives of any potential fire, explosion, health, safety, or other hazards of the hazardous waste operation that have been identified by the employer including the employer's information program.~~

~~(b) The safety and health program required in this section shall be made available to any subcontractor or its representative who will be involved with the hazardous waste operation and employees, their designated representatives, and WISHA personnel.)~~

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3020 SITE CHARACTERIZATION AND ANALYSIS. (1) **General.** Hazardous waste sites shall be evaluated in accordance with this section to identify specific site hazards and to determine the appropriate safety and health control procedures needed to protect employees from the identified hazards.

~~((i)) (2) Preliminary evaluation. A preliminary evaluation of a site's characteristics shall be performed prior to site entry by a~~

~~((trained))~~ qualified person in order to aid in the selection of appropriate employee protection methods prior to site entry. Immediately after initial site entry, a more detailed evaluation of the site's specific characteristics shall be performed by a qualified person in order to further identify existing site hazards and to further aid in the selection of the appropriate engineering controls and personal protective equipment for the tasks to be performed.

~~((2))~~ (3) Hazard identification. All suspected conditions that may pose inhalation or skin absorption hazards that are immediately dangerous to life or health (IDLH), or other conditions that may cause death or serious harm, shall be identified during the preliminary survey and evaluated during the detailed survey. Examples of such hazards include, but are not limited to, confined space entry, potentially explosive or flammable situations, visible vapor clouds, or areas where biological indicators such as dead animals or vegetation are located.

~~((3))~~ (4) Required information. The following information to the extent available shall be obtained by the employer prior to allowing employees to enter a site:

- (a) Location and approximate size of the site.
- (b) Description of the response activity and/or the job task to be performed.
- (c) Duration of the planned employee activity.
- (d) Site topography(~~(- Site))~~ and accessibility by air and roads.
- (e) Safety and health hazards expected at the site.
- (f) Pathways for hazardous substance dispersion.
- (g) Present status and capabilities of emergency response teams that would provide assistance to ~~((on-site))~~ hazardous waste clean-up site employees at the time of an emergency.
- (h) Hazardous substances and health hazards involved or expected at the site and their chemical and physical properties.

~~((4))~~ (5) Personal protective equipment. Personal protective equipment (PPE) shall be provided and used during initial site entry in accordance with the following requirements:

(a) Based upon the results of the preliminary site evaluation, an ensemble of PPE shall be selected and used during initial site entry which will provide protection to a level of exposure below established permissible exposure limits and published exposure levels for known or suspected hazardous substances and health hazards, and which will provide protection against other known and suspected hazards identified during the preliminary site evaluation. If there is no permissible exposure limit or published exposure level, the employer may use other published studies and information as a guide to appropriate personal protective equipment.

~~((During initial site entry an escape self-contained breathing apparatus of at least five minutes' duration shall be carried by employees or kept available at their immediate work station if positive-pressure self-contained breathing apparatus is not used as part of the entry ensemble.))~~ If positive-pressure self-contained breathing apparatus is not used as part of the entry ensemble, and if respiratory protection is warranted by the potential hazards identified during the preliminary site evaluation, an escape self-contained breathing apparatus of at least five minutes' duration shall be carried by employees during initial site entry.

(c) If the preliminary site evaluation does not produce sufficient information to identify the hazards or suspected hazards of the site an ensemble ~~((of))~~ providing protection equivalent to Level B PPE shall be provided as minimum protection and direct reading instruments shall be used as appropriate for identifying IDLH conditions. (See WAC 296-62-3170 - Appendix B for ~~((guidelines on))~~ a description of Level B hazards and the recommendations for Level B protective equipment.)

(d) Once the hazards of the site have been ~~((positively))~~ identified, the appropriate PPE shall be selected and used in accordance with WAC 296-62-3060.

~~((5))~~ (6) Monitoring. The following monitoring shall be conducted during initial site entry when the site evaluation produces information that shows the potential for ionizing radiation or IDLH conditions, or when the site information is not sufficient to rule out these possible conditions:

(a) Monitoring with direct reading instruments for hazardous levels of ionizing radiation.

(b) Monitoring the air with appropriate ~~((test))~~ direct reading equipment (i.e., combustible gas meters, detector tubes) for IDLH and other conditions that may cause death or serious harm (combustible or explosive atmospheres, oxygen deficiency, toxic substances).

(c) Visually observing for signs of actual or potential IDLH or other dangerous conditions.

~~((6))~~ (d) An ongoing air monitoring program in accordance with WAC 296-62-3070 shall be implemented after site characterization has determined the site is safe for the start-up of operations.

(7) Risk identification. Once the presence and concentrations of specific hazardous substances and health hazards have been established, the risks associated with these substances shall be identified. Employees who will be working on the site shall be informed of any risks that have been identified. In situations covered by WAC 296-62-054 through ~~((296-62-05425))~~ 296-62-05427, training required by ~~((that))~~ those standards need not be duplicated.

Note: Risks to consider include, but are not limited to:

(a) Exposures exceeding the ~~((appropriate threshold limit values (TLVs))~~ permissible exposure limits ~~((PELs), or recommended))~~ and published exposure ~~((limits (RELs)))~~ levels.

(b) IDLH concentrations.

(c) Potential skin absorption and irritation sources.

(d) Potential eye irritation sources.

(e) Explosion sensitivity and flammability ranges.

(f) Oxygen deficiency.

~~((7))~~ (8) Employee notification. Any information concerning the chemical, physical, and toxicologic properties of each substance known or expected to be present on site that is available to the employer and relevant to the duties an employee is expected to perform shall be made available to all employees prior to the commencement of their work activities. The employer may utilize information developed for the hazard communication standard for this purpose.

~~((8) An ongoing air monitoring program in accordance with WAC 296-62-3070 shall be implemented after site characterization has determined the site is safe for the start-up of operations.))~~

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3030 SITE CONTROL. (1) General. Appropriate site control procedures shall be implemented ~~((before clean-up work begins))~~ to control employee exposure to hazardous substances before clean-up work begins.

~~((1))~~ (2) Site control program. A site control program for protecting employees which is part of the employer's site safety and health program required in WAC 296-62-3010 shall be developed during the planning stages of a hazardous waste clean-up operation ~~((clean-up))~~ and modified as necessary as new information becomes available.

~~((2))~~ (3) Elements of the site control program. The site control program shall, as a minimum, include: A site map~~((;))~~; site work zones~~((;))~~; the use of a "buddy system~~((;))~~"; site communications~~((;))~~ including alerting means for emergencies; the standard operating procedures or safe work practices~~((;))~~; and, identification of nearest medical assistance. Where these requirements are covered elsewhere they need not be repeated.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3040 TRAINING. (1) General.

(a) All employees working on site (such as but not limited to equipment operators ~~((and))~~, general laborers, and others) exposed to hazardous substances, health hazards, or safety hazards ~~((shall be thoroughly trained in))~~, and their supervisors and management responsible for the site, shall receive training meeting the requirements of this subsection before they are permitted to engage in hazardous waste operations that could expose them to hazardous substances, safety, or health hazards, and they shall review training as specified in this subsection.

(b) Employees shall not be permitted to participate in or supervise field activities until they have been trained to a level required by their job function and responsibility.

(2) Elements to be covered. The training shall thoroughly cover the following:

(a) Names of personnel and alternates responsible for site safety and health;

(b) Safety, health, and other hazards present on the site;

(c) Use of ~~((PPE))~~ personal protective equipment;

(d) Work practices by which the employee can minimize risks from hazards;

(e) Safe use of engineering controls and equipment on the site;

(f) Medical surveillance requirements including recognition of symptoms and signs which might indicate overexposure to hazards; and

(g) The contents of items (vii) through (x) of the site safety and health plan set forth in WAC 296-62-3010 ~~((+)(d))~~ (4)(b).

~~((2))~~ All employees shall at the time of job assignment receive a minimum of forty hours of initial instruction off the site, and a minimum of three days of actual field experience under the direct supervision of a trained, experienced supervisor. Workers who may be exposed to unique or special hazards shall be provided additional training. The level of training provided shall be consistent with the employee's job function and responsibilities.) (3) Initial training.

(a) General site workers (such as equipment operators, general laborers, and supervisory personnel) engaged in hazardous substance removal or other activities which expose or potentially expose workers to hazardous substances and health hazards shall receive a minimum of 40 hours of instruction off the site, and a minimum of three days actual field experience under the direct supervision of a trained, experienced supervisor.

(b) Workers on site only occasionally for a specific limited task (such as, but not limited to, ground water monitoring, land surveying, or geophysical surveying) and who are unlikely to be exposed over permissible exposure limits and published exposure levels shall receive a minimum of 24 hours of instruction off the site, and the minimum of one day actual field experience under the direct supervision of a trained, experienced supervisor.

(c) Workers regularly on site who work in areas which have been monitored and fully characterized indicating that exposures are under permissible exposure limits and published exposure levels where respirators are not necessary, and the characterization indicates that there are no health hazards or the possibility of an emergency developing, shall receive a minimum of 24 hours of instruction off the site and the minimum of one day actual field experience under the direct supervision of a trained, experienced supervisor.

(d) Workers with 24 hours of training who are covered by (b) and (c) of this subsection, and who become general site workers or who are required to wear respirators, shall have the additional 16 hours and two days of training necessary to total the training specified in (a) of this subsection.

~~((3))~~ (4) Management and supervisor training. On-site management and supervisors directly responsible for, or who supervise employees engaged in, hazardous waste operations shall receive 40 hours initial training (as provided in subsections (1) and (2)), and three days of supervised field experience (the training may be reduced to 24 hours and one day if the only area of their responsibility is employees covered by subsection (3)(b) and (c) of this section) and at least eight additional hours of specialized training at the time of job assignment on such topics as, but not limited to, the employer's safety and health program and the associated employee training program, personal protective equipment program, spill containment program, and health hazard monitoring procedure and techniques.

~~((4))~~ (5) Qualifications for trainers. Trainers shall be qualified to instruct employees about the subject matter that is being presented in training. Such trainers shall have satisfactorily completed a training program for teaching the subjects they are expected to teach, or they shall have the academic credentials and instructional experience necessary for teaching the subjects. Instructors shall demonstrate competent instructional skills and knowledge of the applicable subject matter.

(Note. Trainers can show their qualifications by having the knowledge or training equivalent to a level of training higher than the level they are presenting. This may be shown by academic degrees, training courses completed and/or work experience.

(5) Employees shall not be permitted to participate in field activities until they have been trained to a level required by their job function and responsibility.)

(6) Training certification. Employees and supervisors that have received and successfully completed the training and field experience specified in subsections (1) ~~((,-(2), and (3))~~ through (4) of this section shall be certified by their instructor or the head instructor and trained supervisor as having successfully completed the necessary training. A written certificate shall be given to each person so certified. Any person who has not been so certified ~~((nor meets))~~ or who does not meet the requirements of subsection (9) of this section shall be prohibited from engaging in hazardous waste operations.

(7) Emergency response. Employees who are engaged in responding to hazardous emergency situations at hazardous waste clean-up sites that may expose them to hazardous substances shall be trained in how to respond to expected emergencies.

(8) Refresher training. Employees specified in subsection (1) of this section, and managers specified in subsection ~~((3))~~ (4) of this section, shall receive eight hours of refresher training annually on the items specified in subsections ~~((+))~~ (2) and/or (4) of this section, any critique of incidents that have occurred in the past year that can serve as training examples of related work, and other relevant topics.

(9) Equivalent training. Employers who can show by documentation or certification that an employee's work experience and/or training has resulted in ~~((initial))~~ training equivalent to that training required in subsections (1) ~~((,-(2), and (3))~~ through (4) of this section shall not be required to provide the initial training requirements of those sections to such employees. However, certified employees new to a site shall receive appropriate, site specific training before site entry and have appropriate supervised field experience at the new site. Equivalent training includes ~~((the))~~ any academic training or the training that existing employees might have already received from actual hazardous waste site work experience.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3050 MEDICAL SURVEILLANCE. ~~((Medical surveillance shall be provided in accordance with this section for employees exposed or potentially exposed to hazardous substances or health hazards or who wear respirators.~~

(1) Employees covered. A medical surveillance program which is part of the employer's safety and health program required in WAC 296-62-3040 (1) General. Employers engaged in operations specified in WAC 296-62-300 (1)(a) through (d) and not covered by WAC 296-62-300(2), exceptions; and employers of employees specified in WAC 296-62-3112(9) shall institute a medical surveillance program in accordance with this subsection.

(2) Employees covered. The medical surveillance program shall be instituted by the employer for the following employees:

(a) All employees who are or may be exposed to hazardous substances or health hazards at or above the ~~((established))~~ permissible exposure limits or, if there is no permissible exposure limit, above the published exposure levels for these substances, without regard to the use of respirators, for ~~((thirty))~~ 30 days or more a year;

(b) All employees who wear a respirator for ~~((thirty))~~ 30 days or more a year or as required by WAC 296-62-071; and

(c) All employees who are injured due to overexposure from an emergency incident involving hazardous substances or health hazards; or

(d) Members of HAZMAT teams.

~~((2))~~ (3) Frequency of medical examinations and consultations. Medical examinations and consultations shall be made available by the employer to each employee covered under subsection (1) of this section on the following schedules:

(a) For employees covered under WAC 296-62-3150 (2)(a), (b), and (d):

(i) Prior to assignment ~~((or for employees covered on the effective date of this standard as specified in WAC 296-62-3150));~~

~~((b))~~ (ii) At least once every twelve months for each employee covered ~~((:))~~ unless the attending physician believes a longer interval ~~((not greater than biennially))~~ is appropriate;

~~((c))~~ (iii) At termination of employment or reassignment to an area where the employee would not be covered if the employee has not had an examination within the last six months ~~((:));~~

~~((d))~~ (iv) As soon as possible upon notification by an employee that the employee has developed signs or symptoms indicating possible overexposure to hazardous substances or health hazards, or that the employee has been injured or exposed above the ~~((established))~~ permissible exposure limits, or published exposure levels in an emergency situation ~~((:));~~

~~((e))~~ (v) At more frequent times, if the examining physician determines that an increased frequency of examination is medically necessary.

(b) For employees covered under subsection (1)(c) of this section and for all employees including those employees covered by WAC 296-62-300 (1)(e) who may have been injured, received a health impairment, developed signs or symptoms which may have resulted from exposure to hazardous substances resulting from an emergency incident, or exposed during an emergency incident to hazardous substances at concentrations above the ~~((established))~~ permissible exposure limits or the published exposure levels without the necessary personal protective equipment being used:

(i) As soon as possible following the emergency incident or development of signs or symptoms;

(ii) At additional times, if the examining physician determines that follow-up examinations or consultations are medically necessary.

~~((3))~~ (4) Content of medical examinations and consultations.

(a) Medical examinations required by subsection ~~((2))~~ (3) of this section shall include a medical and work history (or updated history if one is in the employee's file) with special emphasis on symptoms related to the handling of hazardous substances and health hazards, and to fitness for duty including the ability to wear any required PPE under conditions (i.e., temperature extremes) that may be expected at the worksite.

(b) The content of medical examinations or consultations made available to employees pursuant to this section shall be determined by the examining physician. The guidelines in the Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities (See Appendix D, Reference #10) should be consulted.

~~((4))~~ (5) Examination by a physician and costs. All medical examinations and procedures shall be performed by or under the supervision of a licensed physician~~(s)~~, preferably one knowledgeable in occupational medicine, and shall be provided without cost to the employee, without loss of pay, and at a reasonable time and place.

~~((5))~~ (6) Information provided to the physician. The employer shall provide one copy of this standard and its appendices to the examining physician, and in addition, the following for each employee:

(a) A description of the employee's duties as they relate to the employee's exposures;

(b) The employee's exposure levels or anticipated exposure levels;

(c) A description of any personal protective equipment used or to be used;

(d) Information from previous medical examinations of the employee which is not readily available to the examining physician; and

(e) Information required in WAC 296-62-071 through 296-62-07121.

~~((6))~~ (7) Physician's written opinion.

(a) The employer shall obtain and furnish the employee with a copy of a written opinion from the examining physician containing the following:

(i) ~~((The results of the medical examination and tests if requested by the employee.~~

(ii) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from work in hazardous waste operations or emergency response or from respirators ~~((used as required in WAC 296-62-071 through 296-62-07121))~~ use.

~~((iii))~~ (ii) The physician's recommended limitations upon the employees assigned work.

~~((iii))~~ (iii) The results of the medical examination and tests if requested by the employee.

(iv) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(b) The written opinion obtained by the employer shall not reveal specific findings or diagnoses unrelated to occupational exposures.

~~((7))~~ (8) Recordkeeping.

(a) An accurate record of the medical surveillance required by this section shall be retained. This record shall be retained for the period specified and meet the criteria of Part B of ~~((this))~~ chapter 296-62 WAC.

(b) The record required in (a) of this subsection shall include at least the following information:

(i) The name and Social Security number of the employee;

(ii) Physicians' written opinions, recommended limitations, and results of examinations and tests;

(iii) Any employee medical complaints related to exposure to hazardous substances;

(iv) A copy of the information provided to the examining physician by the employer, with the exception of the standard and its appendices.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3060 ENGINEERING CONTROLS, WORK PRACTICES, AND PERSONAL PROTECTIVE EQUIPMENT FOR EMPLOYEE PROTECTION. (1) Engineering controls, work practices, ~~((PPE))~~ personal protective equipment, or a combination of

these shall be implemented in accordance with this section to protect employees from exposure to hazardous substances and health hazards.

(a) Engineering controls, work practices, and PPE for substances regulated in ~~((this))~~ chapter 296-62 WAC.

Engineering controls and work practices shall be instituted to reduce and maintain employee exposure to or below the permissible exposure limits ~~((of))~~ for substances regulated by this chapter, except to the extent that such controls and practices are not feasible.

Note: Engineering controls which may be feasible include the use of pressurized cabs or control booths on equipment, and/or the use of remotely operated material handling equipment. Work practices which may be feasible are removing all nonessential employees from potential exposure during opening of drums, wetting down dusty operations, and locating employees upwind of possible hazards.

(b) Whenever engineering controls and work practices are not feasible, PPE shall be used to reduce and maintain exposures to or below the permissible exposure limits or dose limits for substances regulated by ~~((this))~~ chapter 296-62 WAC.

(c) The employer shall not implement a schedule of employee rotation as a means of compliance with permissible exposure limits or dose limits except when there is no other feasible way of complying with the airborne or dermal dose limits for ionizing radiation.

~~((d))~~ The provisions of WAC 296-62-080 through 296-62-09013, 296-62-09015 through 296-62-09055, and 296-62-100 through 296-62-130 shall be followed.

(2) Engineering controls, work practices, and personal protective equipment for substances not regulated in ~~((this))~~ chapter 296-62 WAC. An appropriate combination of engineering controls, work practices, and personal protective equipment shall be ~~((established))~~ used to reduce and maintain employee exposure to or below ~~((appropriate))~~ published exposure levels for hazardous substances and health hazards not regulated by ~~((this))~~ chapter ~~((taking into account the established exposure levels))~~ 296-62 WAC. The employer may use the published literature and MSDS as a guide in making the employer's determination as to what level of protection the employer believes is appropriate for hazardous substances and health hazards for which there is no permissible exposure limit or published exposure level.

(3) Personal protective equipment selection.

(a) Personal protective equipment (PPE) shall be selected and used which will protect employees from the hazards and potential hazards they are likely to encounter as identified during the site characterization and analysis.

(b) Personal protective equipment selection shall be based on an evaluation of the performance characteristics of the PPE relative to the requirements and limitations of the site, the task-specific conditions and duration, and the hazards and potential hazards identified at the site.

(c) Positive pressure self-contained breathing apparatus, or positive pressure air-line respirators equipped with an escape air supply shall be used ~~((in IDLH conditions))~~ when chemical exposure levels present will create a substantial possibility of immediate death, immediate serious illness or injury, or impair the ability to escape.

(d) Totally-encapsulating chemical protective suits (protection equivalent to Level A protection as ~~((specified))~~ recommended in Appendix B) shall be used in conditions where skin absorption of a hazardous substance may result in ~~((an IDLH situation))~~ a substantial possibility of immediate death, immediate serious illness or injury, or impair the ability to escape.

(e) The level of protection provided by PPE selection shall be increased when additional information or site conditions ~~((show))~~ indicate that increased protection is necessary to reduce employee exposures below ~~((established))~~ permissible exposure limits and published exposure levels for hazardous substances and health hazards. (See WAC 296-62-3170 - Appendix B for guidance on selecting PPE ensembles.)

Note: The level of employee protection provided may be decreased when additional information or site conditions show that decreased protection will not result in increased hazardous exposures to employees.

(f) Personal protective equipment shall be selected and used to meet the requirements of chapter 296-24 WAC, Part A-1, and additional requirements specified in this part.

(4) Totally-encapsulating chemical protective suits.

(a) Totally-encapsulating suits ~~((materials used for Level A protection))~~ shall protect employees from the particular hazards which are identified during site characterization and analysis.

(b) Totally-encapsulating suits shall be capable of maintaining positive air pressure. (See WAC 296-62-3160 - Appendix A for a test method which may be used to evaluate this requirement.)

(c) Totally-encapsulating suits shall be capable of preventing inward test gas leakage of more than 0.5 percent. (See WAC 296-62-3160 - Appendix A for a test method which may be used to evaluate this requirement.)

(5) Personal protective equipment (PPE) program. A written personal protective equipment program, which is part of the employer's safety and health program required in WAC 296-62-3010 (~~shall be established for hazardous waste operations~~) and which shall be part of the site-specific safety and health plan shall be established. The PPE program shall address the (~~following~~) elements(~~(:)~~) listed below. When elements, such as donning and doffing procedures, are provided by the manufacturer of a piece of equipment and are attached to the plan, they need not be rewritten into the plan as long as they adequately address the procedure or element.

- (a) (~~Site hazards,~~
 - (~~b~~) PPE selection(~~(:)~~) based on site hazards,
 - (~~c~~) PPE use(~~(:)~~) and limitations of the equipment,
 - (~~d~~) Work mission duration(~~(:)~~),
 - (~~e~~) PPE maintenance and storage(~~(:)~~),
 - (~~f~~) PPE decontamination(~~(:)~~) and disposal,
 - (~~g~~) PPE training and proper fitting(~~(:)~~),
 - (~~h~~) PPE donning and doffing procedures(~~(:)~~),
 - (~~i~~) PPE inspection(~~(:)~~) procedures prior to, during, and after use,
 - (~~j~~) PPE in-use monitoring,
 - (~~k~~) Evaluation of the effectiveness of the PPE program(~~(:)~~),
- and
- (~~l~~) Limitations during temperature extremes, heat stress, and other appropriate medical considerations.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3070 MONITORING. (1) General.

(a) Monitoring shall be performed in accordance with this section where there may be a question of employee exposure to concentrations of hazardous substances in order to assure proper selection of engineering controls, work practices, and personal protective equipment so that employees are not exposed to levels which exceed (~~established~~) permissible exposure limits or published exposure levels for hazardous substances.

(~~b~~) Air monitoring shall be used to identify and quantify airborne levels of hazardous substances and safety and health hazards in order to determine the appropriate level of employee protection needed on site.

(2) Initial entry. Upon initial entry, representative air monitoring shall be conducted to identify any IDLH condition, exposure over (~~established~~) permissible exposure limits or published exposure levels, exposure over a radioactive material's dose limits, or other dangerous condition, such as the presence of flammable atmospheres or oxygen-deficient environments.

(3) Periodic monitoring. Periodic monitoring shall be conducted when the possibility of an IDLH condition or flammable atmosphere has developed or when there is indication that exposures may have risen over permissible exposure limits or published exposure levels since prior monitoring. Situations where it shall be considered whether the possibility that exposures have risen are (~~when~~) as follows:

- (a) When work begins on a different portion of the site.
- (b) When contaminants other than those previously identified are being handled.
- (c) When a different type of operation is initiated (e.g., drum opening as opposed to exploratory well drilling).
- (d) When employees are handling leaking drums or containers or working in areas with obvious liquid contamination (e.g., a spill or lagoon).
- (e) When a sufficient reasonable interval has passed so that exposures may have significantly increased.

(4) Monitoring of high-risk employees. After the actual clean-up phase of any hazardous waste (~~cleanup operations commence~~) operation commences; for example, when soil, surface water, or containers are moved or disturbed; the employer shall monitor those employees likely to have the highest exposures to (~~those~~) hazardous substances and health hazards likely to be present above (~~established~~) permissible exposure limits or published exposure levels by using personal sampling frequently enough to characterize employee exposures. If the

employees likely to have the highest exposure are over permissible exposure limits or published exposure levels, then monitoring shall continue to determine all employees likely to be above those limits. The employer may utilize a representative sampling approach by documenting that the employees and chemicals chosen for monitoring are based on the criteria stated in (~~subsection (1) of~~) this (~~section~~) subsection.

Note: It is not required to monitor employees engaged in site characterization operations covered by WAC 296-62-3020.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3080 INFORMATIONAL PROGRAMS. Employers shall develop and implement a program which is part of the employer's safety and health program required in WAC 296-62-3010 (~~(1)(d)(iii)~~) to inform employees, contractors, and subcontractors (or their representative) actually engaged in hazardous waste operations of the nature, level, and degree of exposure likely as a result of participation in such hazardous waste operations. Employees, contractors, and subcontractors working outside of the operations part of a site are not covered by this standard.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3090 HANDLING DRUMS AND CONTAINERS. (1) General.

(a) Hazardous substances and contaminated soils, liquids, and other residues shall be handled, transported, labeled, and disposed of in accordance with this section.

(~~1~~) ~~General:~~

(~~a~~) Drums and containers used during the clean-up shall meet the appropriate DOT, OSHA, WISHA, and EPA regulations for the wastes that they contain.

(~~b~~) (c) When practical, drums and containers shall be inspected and their integrity shall be assured prior to being moved. Drums or containers that cannot be inspected before being moved because of storage conditions (i.e., buried beneath the earth, stacked behind other drums, stacked several tiers high in a pile, etc.) shall be moved to an accessible location and inspected prior to further handling.

(~~c~~) (d) Unlabeled drums and containers shall be considered to contain hazardous substances and handled accordingly until the contents are positively identified and labeled.

(~~d~~) (e) Site operations shall be organized to minimize the amount of drum or container movement.

(~~e~~) (f) Prior to movement of drums or containers, all employees exposed to the transfer operation shall be warned of the potential hazards associated with the contents of the drums or containers.

(~~f~~) (g) United States Department of Transportation specified salvage drums or containers and suitable quantities of proper absorbent shall be kept available and used in areas where spills, leaks, or ruptures may occur.

(~~g~~) (h) Where major spills may occur, a spill containment program, which is part of the employer's safety and health program required in WAC 296-62-3010, shall be implemented to contain and isolate the entire volume of the hazardous substance being transferred.

(~~h~~) (i) Drums and containers that cannot be moved without rupture, leakage, or spillage shall be emptied into a sound container using a device classified for the material being transferred.

(~~i~~) (j) A ground-penetrating system or other type of detection system or device shall be used to estimate the location and depth of buried drums or containers.

(~~j~~) (k) Soil or covering material shall be removed with caution to prevent drum or container rupture.

(~~k~~) (l) Fire extinguishing equipment meeting the requirements of Part G of chapter 296-24 WAC shall be on hand and ready for use to control incipient fires.

(2) Opening drums and containers. The following procedures shall be followed in areas where drums or containers are being opened:

(a) Where an airline respirator system is used, connections to the (~~bank~~) source of air (~~cyndlers~~) supply shall be protected from contamination and the entire system shall be protected from physical damage.

(b) Employees not actually involved in opening drums or containers shall be kept a safe distance from the drums or containers being opened.

(c) If employees must work near or adjacent to drums or containers being opened, a suitable shield that does not interfere with the work operation shall be placed between the employee and the drums or containers being opened to protect the employee in case of accidental explosion.

(d) Controls for drum or container opening equipment, monitoring equipment, and fire suppression equipment shall be located behind the explosion-resistant barrier.

(e) When there is a reasonable possibility of flammable atmospheres being present, material handling equipment and hand tools shall be of the type to prevent sources of ignition.

(f) Drums and containers shall be opened in such a manner that excess interior pressure will be safely relieved. If pressure cannot be relieved from a remote location, appropriate shielding shall be placed between the employee and the drums or containers to reduce the risk of employee injury.

(g) Employees shall not stand upon or work from drums or containers.

(3) Material handling equipment. ~~((Electrical))~~ Material handling equipment used to transfer drums and containers shall be selected, positioned, and operated to minimize sources of ignition related to the equipment from igniting vapors released from ruptured drums or containers.

(4) Radioactive wastes. Drums and containers containing radioactive wastes shall not be handled until such time as their hazard to employees is properly assessed.

(5) Shock-sensitive wastes.

~~((Caution: Shipping of shock-sensitive wastes may be prohibited under United States Department of Transportation regulations. Employers and their shippers should refer to WAC 480-12-195.))~~

As a minimum, the following special precautions shall be taken when drums and containers containing or suspected of containing shock-sensitive wastes are handled:

(a) All nonessential employees shall be evacuated from the area of transfer.

(b) Material handling equipment shall be provided with explosive containment devices or protective shields to protect equipment operators from exploding containers.

(c) An employee alarm system capable of being perceived above surrounding light and noise conditions shall be used to signal the commencement and completion of explosive waste handling activities.

(d) Continuous communications (i.e., portable radios, hand signals, telephones, as appropriate) shall be maintained between the employee-in-charge of the immediate handling area and the site safety and health supervisor or command post until such time as the handling operation is completed. Communication equipment or methods that could cause shock-sensitive materials to explode shall not be used.

(e) Drums and containers under pressure, as evidenced by bulging or swelling, shall not be moved until such time as the cause for excess pressure is determined and appropriate containment procedures have been implemented to protect employees from explosive relief of the drum.

(f) Drums and containers containing packaged laboratory wastes shall be considered to contain shock-sensitive or explosive materials until they have been characterized.

Caution: Shipping of shock-sensitive wastes may be prohibited under United States Department of Transportation regulations. Employers and their shippers should refer to WAC 480-12-195.

(6) Laboratory waste packs. In addition to the requirements of subsection (4) of this section, the following precautions shall be taken, as a minimum, in handling laboratory waste packs (lab packs):

(a) Lab packs shall be opened only when necessary and then only by an individual knowledgeable in the inspection, classification, and segregation of the containers within the pack according to the hazards of the wastes.

(b) If crystalline material is noted on any container, the contents shall be handled as a shock-sensitive waste until the contents are identified.

(7) Sampling of drum(s) and container(s) contents. Sampling of containers and drums shall be done in accordance with a sampling procedure which is part of the site safety and health plan developed for and available to employees and others at the specific worksite.

(8) Shipping and transport.

(a) Drums and containers shall be identified and classified prior to packaging for shipment.

(b) Drum or container staging areas shall be kept to the minimum number necessary to identify and classify materials safely and prepare them for transport.

(c) Staging areas shall be provided with adequate access and egress routes.

(d) Bulking of hazardous wastes shall be permitted only after a thorough characterization of the materials has been completed.

(9) Tank and vault procedures.

(a) Tanks and vaults containing hazardous substances shall be handled in a manner similar to that for drums and containers, taking into consideration the size of the tank or vault.

(b) Appropriate tank or vault entry procedures ~~((meeting))~~ as described in WAC 296-62-14503 and the employer's safety and health plan shall be followed whenever employees must enter a tank or vault.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3100 DECONTAMINATION. (1) General. Procedures for all phases of decontamination shall be developed and implemented in accordance with this section.

~~((+))~~ (2) Decontamination procedures.

(a) A decontamination procedure shall be developed, communicated to employees and implemented before any employees or equipment may enter areas on site where potential for exposure to hazardous substances exists.

~~((+))~~ (b) Standard operating procedures shall be developed to minimize employee contact with hazardous substances or with equipment that has contacted hazardous substances.

(c) All employees leaving a contaminated area shall be appropriately decontaminated; all contaminated clothing and equipment leaving a contaminated area shall be appropriately disposed of or decontaminated.

(d) Decontamination procedures shall be monitored by the site safety and health supervisor to determine their effectiveness. When such procedures are found to be ineffective, appropriate steps shall be taken to correct any deficiencies.

(3) Location. Decontamination shall be performed in geographical areas that will minimize the exposure of uncontaminated employees or equipment to contaminated employees or equipment.

~~((+))~~ (4) ~~((All employees leaving a contaminated area shall be appropriately decontaminated; all clothing and equipment leaving a contaminated area shall be appropriately disposed of or decontaminated.))~~

~~((+))~~ (5) ~~((Decontamination procedures shall be monitored by the site safety and health supervisor to determine their effectiveness. When such procedures are found to be ineffective, appropriate steps shall be taken to correct any deficiencies.))~~

~~((+))~~ Equipment and solvents. All equipment and solvents used for decontamination shall be decontaminated or disposed of properly.

~~((+))~~ (5) Personal protective clothing and equipment.

(a) Protective clothing and equipment shall be decontaminated, cleaned, laundered, maintained, or replaced as needed to maintain their effectiveness.

~~((+))~~ (b) Employees whose nonimpermeable clothing becomes wetted with hazardous substances shall immediately remove that clothing and proceed to shower. The clothing shall be disposed of or decontaminated before it is removed from the work zone.

~~((+))~~ (6) Unauthorized employees. Unauthorized employees shall not remove protective clothing or equipment from change rooms.

~~((+))~~ (7) Commercial laundries or cleaning establishments. Commercial laundries or cleaning establishments that decontaminate protective clothing or equipment shall be informed of the potentially harmful effects of exposures to hazardous substances.

~~((+))~~ (8) Showers and change rooms. Where the decontamination procedure indicates a need for regular showers and change rooms outside of a contaminated area, they shall be provided and meet the requirements of Part B-1 of chapter 296-24 WAC. If temperature conditions prevent the effective use of water, then other effective means for cleansing shall be provided and used.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3110 EMERGENCY RESPONSE BY EMPLOYEES AT UNCONTROLLED HAZARDOUS WASTE SITES. ~~((Emergency response at hazardous waste operation incidents shall be conducted in accordance with this section.))~~

(1) ~~((General))~~ Emergency response plan.

(a) An emergency response plan shall be developed and implemented by all employers within the scope of this section to handle anticipated emergencies prior to the commencement of hazardous waste operations. The plan shall be in writing and available for inspection and copying by employees, their representatives, ~~((and))~~ WISHA personnel, and other governmental agencies with relevant responsibilities.

~~(b) Employers who will evacuate their employees from the workplace when an emergency occurs, and who do not permit any of their employees to assist in handling the emergency, respond to assist in handling the emergency are exempt from the requirements of this section if they provide an emergency action plan complying with WAC 296-24-567(1).~~

~~((b)) (2) Elements of an emergency response plan. The employer shall develop an emergency response plan for emergencies which shall address as a minimum, the following:~~

- ~~((i)) (a) Preemergency planning.
 ((ii)) (b) Personnel roles, lines of authority, ~~((training,))~~ and communication.
 ((iii)) (c) Emergency recognition and prevention.
 ((iv)) (d) Safe distances and places of refuge.
 ((v)) (e) Site security and control.
 ((vi)) (f) Evacuation routes and procedures.
 ((vii)) (g) Decontamination procedures which are not covered by the site safety and health plan.~~

- ~~((viii)) (h) Emergency medical treatment and first aid.
 ((ix)) (i) Emergency alerting and response procedures.
 ((x)) (j) Critique of response and follow-up.
 ((xi)) (k) PPE and emergency equipment.
 ((2) Emergency response at hazardous waste clean-up sites:~~

~~(a) Training. Training for emergency response employees at clean-up operations shall be conducted in accordance with WAC 296-62-3040.~~

~~(b) Employers who can show that an employee's work experience and/or training has resulted in training equivalent to that training required in (a) of this subsection, shall not be required to provide the initial training requirements of (a) of this subsection. Equivalent training includes the training that existing employees might have already received from actual site work experience.~~

~~((c)) (3) Procedures for handling ~~((site))~~ emergency incidents.
 ((i)) (a) In addition to the elements for the emergency response plan required in subsection ~~((i))~~(b) (2) of this section, the following elements shall be included for emergency response plans:~~

~~((A)) (i) Site topography, layout, and prevailing weather conditions.~~

~~((B)) (ii) Procedures for reporting incidents to local, state, and federal governmental agencies.~~

~~((i)) (b) The emergency response plan shall be a separate section of the site safety and health plan.~~

~~((iii)) (c) The emergency response plan shall be compatible and integrated with the disaster, fire and/or emergency response plans of local, state, and federal agencies.~~

~~((iv)) (d) The emergency response plan shall be rehearsed regularly as part of the overall training program for site operations.~~

~~((v)) (e) The site emergency response plan shall be reviewed periodically, and, as necessary, be amended to keep it current with new or changing site conditions or information.~~

~~((vi)) (f) An employee alarm system shall be installed in accordance with WAC 296-24-631 through 296-24-63199 to notify employees of an on-site emergency situation, to stop work activities if necessary, to lower background noise in order to speed communication, and to begin emergency procedures.~~

~~((vii)) (g) Based upon the information available at the time of the emergency, the employer shall evaluate the incident and the site response capabilities and proceed with the appropriate steps to implement the on-site emergency response plan.~~

~~((3) Emergency response at sites other than hazardous waste clean-up sites:~~

~~(a) Training. Employers shall provide the training specified by this section for those employees for whom there exists the reasonable possibility of responding to emergencies at sites other than hazardous waste clean-up sites.~~

~~(i) Emergency response organizations or teams. Employees on emergency response organizations or teams such as fire brigades, fire departments, plant emergency organizations, hazardous materials teams, spill response teams, and similar groups with responsibility for emergency response shall be trained to a level of competence to protect themselves and other employees in the recognition of health and safety~~

~~hazards, methods to minimize the risk from safety and health hazards, safe use of control equipment, selection and use of appropriate personal protective equipment, safe operating procedures to be used at the incident scene, techniques of coordination with other employees to minimize risks, appropriate response to over exposure from health hazards or injury to themselves and other employees, and recognition of subsequent symptoms which may result from over exposures.~~

~~(A) Competency may be demonstrated by twenty-four hours of training annually in those areas with training sessions at least monthly or by demonstrations by the employee of competency in those areas at least quarterly.~~

~~(B) A certification shall be made of the training or competency and if certification of competency is made, the employer shall keep a record of the methodology used to demonstrate competency.~~

~~(C) An employer of employees for whom the reasonable possibility of responding to emergencies at other than hazardous waste clean-up sites exists need not train all such employees to the degree specified in (a)(i)(A) of this subsection if the employer divides the work force such that sufficient employees who have responsibility to control the emergency have the training specified in this section and other employees who may first respond to the incident have sufficient awareness training to recognize that an emergency response situation exists and are instructed in that case to summon the employees who are fully trained and not attempt control activities for which they are not trained.~~

~~(D) An employer of employees for whom the reasonable possibility exists of responding to emergencies at other than hazardous waste clean-up sites need not train such employees to the degree specified in (a)(i)(A) of this subsection if:~~

~~(i) Arrangements have been made in advance for a fully-trained emergency response team to respond in a reasonable period; and~~

~~(ii) Employees who may come to the incident first have sufficient awareness training to recognize that an emergency response situation exists and are instructed to call the designated fully-trained emergency response team for assistance.~~

~~(iii) Specialist employees. Employees who, in the course of their regular job duties, work with and are trained in the hazards of specific materials covered by this standard, and who will be called upon to provide technical advice or assistance at a hazardous substance release incident, are exempt from the monthly training sessions required in (a)(i) of this subsection. They must, pursuant to (a)(i) of this subsection, however, receive at least twenty-four hours of training annually or demonstrate competency in the area of their specialization.~~

~~(iv) Skilled support personnel. Personnel, not necessarily an employer's own employees, who are needed to perform immediate emergency support work that cannot reasonably be performed in a timely fashion by an employer's own employees, and who will be or may potentially be exposed to the hazards at an emergency response scene, are not required to have the twenty-four hours of annual training or demonstrate the competency required for the employer's regular employees. However, the senior official cited in (b)(i) of this subsection shall ensure that these personnel are given an initial briefing at the site of emergency response prior to their participation in that response that shall include instruction in the wearing of appropriate personal protective equipment, what chemical hazards are involved, and what duties are to be performed. All appropriate safety and health precautions provided to the employer's own employees shall be used to assure the safety and health of these personnel.~~

~~(b) Procedures for handling off-site emergency response:~~

~~(i) The senior officer responding to an emergency at other than hazardous waste clean-up sites involving a hazardous substance or health hazard shall establish and become the individual in charge of a site-specific incident command system (ICS). All emergency responders and their communications shall be coordinated and controlled through the individual in charge of the ICS assisted by the senior official present for each employer.~~

~~Note. The "senior official" at an off-site emergency response is the most senior official on the site who has the responsibility for controlling the operations at the site. Initially it is the senior officer on the first due piece of responding emergency apparatus to arrive on the incident scene. As more senior officers arrive (i.e., fire chief, battalion chief, site coordinator, etc.) the position is passed up the line of authority.~~

~~(ii) The individual in charge of the ICS shall identify, to the extent possible, all hazardous substances or conditions present and shall address as appropriate site analysis, use of engineering controls, maximum exposure limits, hazardous substance handling procedures, and use of any new technologies.~~

(iii) Based on the hazardous substances and/or conditions present, the individual in charge of the ICS shall implement appropriate emergency operations, and assure that the personal protective equipment worn is appropriate for the hazards to be encountered. However, personal protective equipment shall meet, at a minimum, the criteria contained in WAC 296-24-58505 through 296-24-58507 when worn while performing fire fighting operations beyond the incipient stage.

(iv) Employees engaged in emergency response and exposed to hazardous substances shall wear positive pressure self-contained breathing apparatus while engaged in emergency response until such time that the individual in charge of the ICS determines through the use of air monitoring that a decreased level of respiratory protection will not result in hazardous exposures to employees.

(v) The individual in charge of the ICS shall limit the number of emergency response personnel at the emergency site to those who are actively performing emergency operations. However, operations in hazardous areas shall be performed using the buddy system in groups of two or more.

(vi) Back-up personnel shall stand by with equipment ready to provide assistance or rescue. Qualified basic life support personnel, as a minimum, shall also stand by with medical equipment and transportation capability.

(vii) The individual in charge of the ICS shall designate a safety official, who is knowledgeable in the operations being implemented at the emergency response site, with specific responsibility to identify and evaluate hazards and to provide direction with respect to the safety of operations for the emergency at hand.

(viii) When activities are judged by the safety official to be an IDLH condition and/or to involve an imminent danger condition, the safety officer shall have the authority to alter, suspend, or terminate those activities. The safety officer shall immediately inform the individual in charge of the ICS of any actions taken to correct these hazards at an emergency scene.

(ix) After emergency operations have terminated, the individual in charge of the ICS shall implement appropriate decontamination procedures.

(x) When deemed necessary for meeting the tasks at hand, approved self-contained compressed air breathing apparatus may be used with approved cylinders from other approved self-contained compressed air breathing apparatus provided that such cylinders are of the same capacity and pressure rating. All compressed air cylinders used with self-contained breathing apparatus shall meet United States Department of Transportation and National Institute for Occupational Safety and Health criteria:

(4) Hazardous materials teams (HAZMAT):

(a) Employees who are members of the HAZMAT team shall be given training in accordance with subsection (3) of this section that includes the care and use of chemical protective clothing and procedures to be followed when working on leaking drums, containers, tanks, or bulk transport vehicles.

(b) Members of HAZMAT teams shall receive a base line physical exam and have medical surveillance meeting the requirements of WAC 296-62-3050.

(c) Chemical personal protective clothing and equipment to be used by HAZMAT team members shall meet the requirements of WAC 296-62-3060.

(5) Post-emergency response operations. Upon completion of the emergency response, if it is determined that it is necessary to remove hazardous substances, health hazards and materials contaminated with them (such as contaminated soil or other elements of the natural environment) from the site of the incident the employer conducting the clean-up shall comply with one of the following:

(a) Meet all the requirements of WAC 296-62-3010 through 296-62-3130.

(b) Where the clean-up is done on plant property using plant or workplace employees, such employees shall have completed the training requirements of the following: WAC 296-24-567, 296-24-07109(6), 296-62-05415(2), and other appropriate safety and health training made necessary by the tasks that they are expected to be performed. All equipment to be used in the performance of the clean-up work shall be in serviceable condition and shall have been inspected prior to use.)

(4) Training program.

(a) New employees. The employer shall develop and implement a training program, which is part of the employer's safety and health program, for employees involved with hazardous waste operations to enable employees to perform their assigned duties and functions in a

safe and healthful manner so as not to endanger themselves or other employees. The initial training shall be for 24 hours and refresher training shall be for eight hours annually. Employees who have received the initial training required by this section shall be given a written certificate attesting that they have successfully completed the necessary training.

(b) Current employees. Employers who can show by an employee's previous work experience and/or training that the employee has had training equivalent to the initial training required by this section, shall be considered as meeting the initial training requirements of this section as to that employee. Equivalent training includes the training that existing employees might have already received from actual site work experience. Current employees shall receive eight hours of refresher training annually.

(c) Trainers. Trainers who teach initial training shall have satisfactorily completed a training course for teaching the subjects they are expected to teach or they shall have the academic credentials and instruction experience necessary to demonstrate a good command of the subject matter of the courses and competent instructional skills.

(5) Emergency response program.

(a) Emergency response plan. An emergency response plan shall be developed and implemented by all employers. Such plans need not duplicate any of the subjects fully addressed in the employer's contingency planning required by permits, such as those issued by the United States Environmental Protection Agency, provided that the contingency plan is made part of the emergency response plan. The emergency response plan shall be a written portion of the employer's safety and health program required in this section. Employers who will evacuate their employees from the worksite location when an emergency occurs and who do not permit any of their employees to assist in handling the emergency are exempt from the requirements of WAC 296-62-3140(1) if they provide an emergency action plan complying with WAC 296-24-567.

(b) Elements of an emergency response plan. The employer shall develop an emergency response plan for emergencies which shall address, as a minimum, the following areas to the extent that they are not addressed in any specific program required in this section:

(i) Preemergency planning and coordination with outside parties.

(ii) Personnel roles, lines of authority, and communication.

(iii) Emergency recognition and prevention.

(iv) Safe distances and places of refuge.

(v) Site security and control.

(vi) Evacuation routes and procedures.

(vii) Decontamination procedures.

(viii) Emergency medical treatment and first aid.

(ix) Emergency alerting and response procedures.

(x) Critique of response and follow-up.

(xi) PPE and emergency equipment.

(c) Training.

(i) Training for emergency response employees shall be completed before they are called upon to perform in real emergencies. Such training shall include the elements of the emergency response plan, standard operating procedures the employer has established for the job, the personal protective equipment to be worn, and procedures for handling emergency incidents.

Exception #1: An employer need not train all employees to the degree specified if the employer divides the workforce in a manner such that a sufficient number of employees who have responsibility to control emergencies have the training specified, and all other employees, who may first respond to an emergency incident, have sufficient awareness training to recognize that an emergency response situation exists and that they are instructed in that case to summon the fully trained employees and not attempt to control activities for which they are not trained.

Exception #2: An employer need not train all employees to the degree specified if arrangements have been made in advance for an outside fully trained emergency response team to respond in a reasonable period and all employees, who may come to the incident first, have sufficient awareness training to recognize that an emergency response situation exists and they have been instructed to call the designated outside fully trained emergency response team for assistance.

(ii) Employee members of TSD facility emergency response organizations shall be trained to a level of competence in the recognition of health and safety hazards to protect themselves and other employees. This would include training in the methods used to minimize the risk from safety and health hazards; in the safe use of control equipment; in the selection and use of appropriate personal protective equipment;

in the safe operating procedures to be used at the incident scene; in the techniques of coordination with other employees to minimize risks; in the appropriate response to over exposure from health hazards or injury to themselves and other employees; and in the recognition of subsequent symptoms which may result from over exposures.

(iii) The employer shall certify that each covered employee has attended and successfully completed the training required in this subsection, or shall certify the employee's competency at least yearly. The method used to demonstrate competency for certification of training shall be recorded and maintained by the employer.

(d) Procedures for handling emergency incidents.

(i) In addition to the elements for the emergency response plan required in (b) of this subsection, the following elements shall be included for emergency response plans to the extent that they do not repeat any information already contained in the emergency response plan:

(A) Site topography, layout, and prevailing weather conditions.

(B) Procedures for reporting incidents to local, state, and federal governmental agencies.

(ii) The emergency response plan shall be compatible and integrated with the disaster, fire, and/or emergency response plans of local, state, and federal agencies.

(iii) The emergency response plan shall be rehearsed regularly as part of the overall training program for site operations.

(iv) The site emergency response plan shall be reviewed periodically and, as necessary, be amended to keep it current with new or changing site conditions or information.

(v) An employee alarm system shall be installed in accordance with WAC 296-24-631 to notify employees of an emergency situation; to stop work activities if necessary; to lower background noise in order to speed communication; and to begin emergency procedures.

(vi) Based upon the information available at time of the emergency, the employer shall evaluate the incident and the site response capabilities and proceed with the appropriate steps to implement the site emergency response plan.

NEW SECTION

WAC 296-62-3112 EMERGENCY RESPONSE TO HAZARDOUS SUBSTANCE RELEASES. This section covers employers whose employees are engaged in emergency response no matter where it occurs except that it does not cover employees engaged in operations specified in WAC 296-62-300 (1)(a) through (d).

Those emergency response organizations who have developed and implemented programs equivalent to this section for handling releases of hazardous substances pursuant to Section 303 of SARA Title III shall be deemed to have met the requirements of this section.

(1) Emergency response plan. An emergency response plan shall be developed and implemented to handle anticipated emergencies prior to the commencement of emergency response operations. The plan shall be in writing and available for inspection and copying by employees, their representatives, and WISHA personnel. Employers who will evacuate their employees from the workplace when an emergency occurs, and who do not permit any of their employees to assist in handling the emergency, are exempt from the requirements of this section if they provide an emergency action plan in accordance with WAC 296-24-567(1).

(2) Elements of an emergency response plan. The employer shall develop an emergency response plan for emergencies which shall address, as a minimum, the following to the extent that they are not addressed elsewhere:

- (a) Preemergency planning and coordination with outside parties.
- (b) Personnel roles, lines of authority, training, and communication.
- (c) Emergency recognition and prevention.
- (d) Safe distances and places of refuge.
- (e) Site security and control.
- (f) Evacuation routes and procedures.
- (g) Decontamination.
- (h) Emergency medical treatment and first aid.
- (i) Emergency alerting and response procedures.
- (j) Critique of response and follow-up.
- (k) PPE and emergency equipment.
- (l) Emergency response organizations may use the local emergency response plan or the state emergency response plan or both, as part of their emergency response plan to avoid duplication. Those items of the emergency response plan that are being properly addressed by the SARA Title III plans may be substituted into their emergency plan or otherwise kept together for the employer and employee's use.

(3) Procedures for handling emergency response.

(a) The senior emergency response official responding to an emergency shall become the individual in charge of a site-specific incident command system (ICS). All emergency responders and their communications shall be coordinated and controlled through the individual in charge of the ICS assisted by the senior official present for each employer.

Note: The "senior official" at an emergency response is the most senior official on the site who has the responsibility for controlling the operations at the site. Initially it is the senior officer on the first-due piece of responding emergency apparatus to arrive on the incident scene. As more senior officers arrive (i.e., battalion chief, fire chief, state law enforcement official, site coordinator, etc.), the position is passed up the line of authority which has been previously established.

(b) The individual in charge of the ICS shall identify, to the extent possible, all hazardous substances or conditions present and shall address as appropriate site analysis, use of engineering controls, maximum exposure limits, hazardous substance handling procedures, and use of any new technologies.

(c) Based on the hazardous substances and/or conditions present, the individual in charge of the ICS shall implement appropriate emergency operations, and assure that the personal protective equipment worn is appropriate for the hazards to be encountered. However, personal protective equipment shall meet, at a minimum, the criteria contained in WAC 296-24-58513 when worn while performing fire fighting operations beyond the incipient stage for any incident or site.

(d) Employees engaged in emergency response and exposed to hazardous substances presenting an inhalation hazard or potential inhalation hazard shall wear positive pressure self-contained breathing apparatus while engaged in emergency response, until such time that the individual in charge of the ICS determines through the use of air monitoring that a decreased level of respiratory protection will not result in hazardous exposures to employees.

(e) The individual in charge of the ICS shall limit the number of emergency response personnel at the emergency site, in those areas of potential or actual exposure to incident or site hazards, to those who are actively performing emergency operations. However, operations in hazardous areas shall be performed using the buddy system in groups of two or more.

(f) Back-up personnel shall stand by with equipment ready to provide assistance or rescue. Advance first-aid support personnel, as a minimum, shall also stand by with medical equipment and transportation capability.

(g) The individual in charge of the ICS shall designate a safety official, who is knowledgeable in the operations being implemented at the emergency response site, with specific responsibility to identify and evaluate hazards and to provide direction with respect to the safety of operations for the emergency at hand.

(h) When activities are judged by the safety official to be an IDLH condition and/or to involve an imminent danger condition, the safety official shall have the authority to alter, suspend, or terminate those activities. The safety official shall immediately inform the individual in charge of the ICS of any actions needed to be taken to correct these hazards at an emergency scene.

(i) After emergency operations have terminated, the individual in charge of the ICS shall implement appropriate decontamination procedures.

(j) When deemed necessary for meeting the tasks at hand, approved self-contained compressed air breathing apparatus may be used with approved cylinders from other approved self-contained compressed air breathing apparatus provided that such cylinders are of the same capacity and pressure rating. All compressed air cylinders used with self-contained breathing apparatus shall meet United States Department of Transportation and National Institute for Occupational Safety and Health criteria.

(4) Skilled support personnel. Personnel, not necessarily an employer's own employees, who are skilled in the operation of certain equipment, such as mechanized earth moving or digging equipment or crane and hoisting equipment, and who are needed temporarily to perform immediate emergency support work that cannot reasonably be performed in a timely fashion by an employer's own employees, and who will be or may be exposed to the hazards at an emergency response scene, are not required to meet the training required in this subsection for the employer's regular employees. However, these personnel shall be given an initial briefing at the site prior to their participation in any emergency response. The initial briefing shall include instruction in the wearing of appropriate personal protective equipment, what chemical hazards are involved, and what duties are to be performed. All other

appropriate safety and health precautions provided to the employer's own employees shall be used to assure the safety and health of these personnel.

(5) Specialist employees. Employees who, in the course of their regular job duties, work with and are trained in the hazards of specific hazardous substances, and who will be called upon to provide technical advice or assistance at a hazardous substance release incident to the individual in charge, shall receive training or demonstrate competency in the area of their specialization annually.

(6) Training. Training shall be based on the duties and functions to be performed by each responder of an emergency response organization. The skill and knowledge levels required for all new responders, those hired after the effective date of this standard, shall be conveyed to them through training before they are permitted to take part in actual emergency operations on an incident.

Employees who participate, or are expected to participate, in emergency response, shall be given training in accordance with the following:

(a) First responder awareness level. First responders at the awareness level are individuals who are likely to witness or discover a hazardous substance release and who have been trained to initiate an emergency response sequence by notifying the proper authorities of the release. They would take no further action beyond notifying the authorities of the release. First responders at the awareness level shall have sufficient training or have had sufficient experience to objectively demonstrate competency in the following areas:

- (i) An understanding of what hazardous materials are and the risks associated with them in an incident.
- (ii) An understanding of the potential outcomes associated with an emergency created when hazardous materials are present.
- (iii) The ability to recognize the presence of hazardous materials in an emergency.
- (iv) The ability to identify the hazardous materials, if possible.
- (v) An understanding of the role of the first responder awareness individual in the employer's emergency response plan including site security and control and the United States Department of Transportation's Emergency Response Guidebook.

(vi) The ability to realize the need for additional resources and to make appropriate notifications to the communication center.

(b) First responder operations level. First responders at the operations level are individuals who respond to releases or potential releases of hazardous substances as part of the initial response to the site for the purpose of protecting nearby persons, property, or the environment from the effects of the release. They are trained to respond in a defensive fashion without actually trying to stop the release. Their function is to contain the release from a safe distance, keep it from spreading, and protect exposures. First responders at the operational level shall have received at least eight hours of training or have had sufficient experience to objectively demonstrate competency in the following areas in addition to those listed for the awareness level and the employer shall so certify:

- (i) Knowledge of the basic hazard and risk assessment techniques.
- (ii) Know how to select and use proper personal protective equipment provided to the first responder operational level.
- (iii) An understanding of basic hazardous materials terms.
- (iv) Know how to perform basic control, containment, and/or confinement operations within the capabilities of the resources and personal protective equipment available with their unit.

(v) Know how to implement basic decontamination procedures.

(vi) An understanding of the relevant standard operating procedures and termination procedures.

(c) Hazardous materials technician. Hazardous materials technicians are individuals who respond to releases or potential releases for the purpose of stopping the release. They assume a more aggressive role than a first responder at the operations level in that they will approach the point of release in order to plug, patch, or otherwise stop the release of hazardous substance. Hazardous materials technicians shall have received at least 24 hours of training equal to the first responder operations level and in addition have competency in the following areas and the employer shall so certify:

- (i) Know how to implement the employer's emergency response plan.
- (ii) Know the classification, identification, and verification of known and unknown materials by using field survey instruments and equipment.
- (iii) Be able to function within an assigned role in the incident command system.

(iv) Know how to select and use proper specialized chemical personal protective equipment provided to the hazardous materials technician.

(v) Understand hazard and risk assessment techniques.

(vi) Be able to perform advance control, containment, and/or confinement operations within the capabilities of the resources and personal protective equipment available with the unit.

(vii) Understand and implement decontamination procedures.

(viii) Understand termination procedures.

(ix) Understand basic chemical and toxicological terminology and behavior.

(d) Hazardous materials specialist. Hazardous materials specialists are individuals who respond with and provide support to hazardous materials technicians. Their duties parallel those of the hazardous materials technician, however, those duties require a more directed or specific knowledge of the various substances they may be called upon to contain. The hazardous materials specialist would also act as the site liaison with federal, state, local, and other government authorities in regard to site activities.

Hazardous materials specialists shall have received at least 24 hours of training equal to the technician level and in addition have competency in the following areas and the employer shall so certify:

- (i) Know how to implement the local emergency response plan.
- (ii) Understand classification, identification, and verification of known and unknown materials by using advanced survey instruments and equipment.
- (iii) Know of the state emergency response plan.
- (iv) Be able to select and use proper specialized chemical personal protective equipment provided to the hazardous materials specialist.
- (v) Understand in-depth hazard and risk techniques.
- (vi) Be able to perform specialized control, containment, and/or confinement operations within the capabilities of the resources and personal protective equipment available.
- (vii) Be able to determine and implement decontamination procedures.
- (viii) Have the ability to develop a site safety and control plan.
- (ix) Understand chemical, radiological, and toxicological terminology and behavior.

(e) On scene incident commander. Incident commanders, who will assume control of the incident scene beyond the first responder awareness level, shall receive at least 24 hours of training equal to the first responder operations level and in addition have competency in the following areas and the employer shall so certify:

- (i) Know and be able to implement the employer's incident command system.
- (ii) Know how to implement the employer's emergency response plan.
- (iii) Know and understand the hazards and risks associated with employees working in chemical protective clothing.
- (iv) Know how to implement the local emergency response plan.
- (v) Know of the state emergency response plan and of the Federal Regional Response Team.
- (vi) Know and understand the importance of decontamination procedures.

(7) Trainers. Trainers who teach any of the above training subjects shall have satisfactorily completed a training course for teaching the subjects they are expected to teach, such as the courses offered by the United States Fire Academy, or they shall have the training and/or academic credentials and instructional experience necessary to demonstrate competent instructional skills and a good command of the subject matter of the courses they are to teach.

(8) Refresher training.

(a) Those employees who are trained in accordance with subsection (6) of this section shall receive annual refresher training of sufficient content and duration to maintain their competencies, or shall demonstrate competency in those areas at least yearly.

(b) A statement shall be made of the training or competency, and if a statement of competency is made, the employer shall keep a record of the methodology used to demonstrate competency.

(9) Medical surveillance and consultation.

(a) Members of an organized and designated HAZMAT team and hazardous materials specialists shall receive a baseline physical examination and be provided with medical surveillance as required in WAC 296-62-3050.

(b) Any emergency response employees who exhibit signs or symptoms which may have resulted from exposure to hazardous substances during the course of an emergency incident, either immediately or

subsequently, shall be provided with medical consultation as required in WAC 296-62-3050 (3)(b).

(10) Chemical protective clothing. Chemical protective clothing and equipment to be used by organized and designated HAZMAT team members, or to be used by hazardous materials specialists, shall meet the requirements of WAC 296-62-3060 (3) through (5).

(11) Postemergency response operations. Upon completion of the emergency response, if it is determined that it is necessary to remove hazardous substances, health hazards, and materials contaminated with them (such as contaminated soil or other elements of the natural environment) from the site of the incident, the employer conducting the clean-up shall comply with one of the following:

(a) Meet all of the requirements of WAC 296-62-3010, 296-62-3020, 296-62-3030, 296-62-3040, 296-62-3050, 296-62-3060, 296-62-3070, 296-62-3080, 296-62-3090, 296-62-3100, 296-62-3110, 296-62-3120, 296-62-3130, and 296-62-3138; or

(b) Where the clean-up is done on plant property using plant or workplace employees, such employees shall have completed the training requirements of WAC 296-24-567(1), 296-62-071, and 296-62-054, and other appropriate safety and health training made necessary by the tasks that they are expected to be performed such as personal protective equipment and decontamination procedures. All equipment to be used in the performance of the clean-up work shall be in serviceable condition and shall have been inspected prior to use.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3120 ILLUMINATION. Areas accessible to employees shall be lighted (~~in accordance with the requirements of this section.~~

~~Work areas shall be lighted~~) to not less than the minimum illumination intensities listed in Table 1 while any work is in progress:

TABLE 1 - 120.1 - MINIMUM ILLUMINATION Intensities in Foot-Candles

Foot-candles	Area or operation
5	General site area.
3	Excavation and waste areas, accessways, active storage areas, loading platforms, refueling, and field maintenance areas.
5	Indoors: Warehouses, corridors, hallways, and exitways.
5	Tunnels, shafts, and general underground work areas; exception: Minimum of ten foot-candles is required at tunnel and shaft heading during drilling, mucking, and scaling. Bureau of Mines approved cap lights shall be acceptable for use in the tunnel heading.
10	General shops (e.g., mechanical and electrical equipment rooms, active storerooms, barracks or living quarters, locker or dressing rooms, dining areas, and indoor toilets and workrooms).
30	First aid stations, infirmaries, and offices.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3130 SANITATION AT TEMPORARY WORKPLACES. (~~Facilities for employee sanitation shall be provided in accordance with this section.~~)

(1) Potable water.

(a) An adequate supply of potable water shall be provided on the site.

(b) Portable containers used to dispense drinking water shall be capable of being tightly closed, and equipped with a tap. Water shall not be dipped from containers.

(c) Any container used to distribute drinking water shall be clearly marked as to the nature of its contents and not used for any other purpose.

(d) Where single service cups (to be used but once) are supplied, both a sanitary container for the unused cups and a receptacle for disposing of the used cups shall be provided.

(2) Nonpotable water.

(a) Outlets for nonpotable water, such as water for fire fighting purposes shall be identified to indicate clearly that the water is unsafe and is not to be used for drinking, washing, or cooking purposes.

(b) There shall be no cross-connection, open or potential, between a system furnishing potable water and a system furnishing nonpotable water.

(3) Toilet facilities.

(a) Toilets shall be provided for employees according to Table 2.

TABLE 2 - TOILET FACILITIES

Number of employees	Minimum number of facilities
20 or fewer	One.
More than 20, fewer than 200	One toilet seat and one urinal per 40 employees.
More than 200	One toilet seat and one urinal per 50 employees.

(b) Under temporary field conditions, provisions shall be made to assure (~~not less than~~) that at least one toilet facility is available.

(c) Hazardous waste sites, not provided with a sanitary sewer shall be provided with the following toilet facilities unless prohibited by local codes:

- (i) Chemical toilets;
- (ii) Recirculating toilets;
- (iii) Combustion toilets; or
- (iv) Flush toilets.

(d) The requirements of this section for sanitation facilities shall not apply to mobile crews having transportation readily available to nearby toilet facilities.

(e) Doors entering toilet facilities shall be provided with entrance locks controlled from inside the facility.

(4) Food handling. All (~~employees~~) food service facilities and operations for employees shall meet the applicable laws, ordinances, and regulations of the jurisdictions in which they are located.

(5) Temporary sleeping quarters. When temporary sleeping quarters are provided, they shall be heated, ventilated, and lighted.

(6) Washing facilities. The employer shall provide adequate washing facilities for employees engaged in operations where hazardous substances may be harmful to employees. Such facilities shall be in near proximity to the worksite, in areas where exposures are below (~~established~~) permissible exposure limits and published exposure levels and which are under the controls of the employer, and shall be so equipped as to enable employees to remove hazardous substances from themselves.

(7) Showers and change rooms. When hazardous waste clean-up or removal operations commence on a site and the duration of the work will require six months or greater time to complete, the employer shall provide showers and change rooms for all employees exposed to hazardous substances and health hazards involved in hazardous waste clean-up or removal operations.

(a) Showers shall be provided and shall meet the requirements of WAC 296-24-12009(3).

(b) Change rooms shall be provided and shall meet the requirements of WAC 296-24-12011. Change rooms shall consist of two separate change areas separated by the shower area required in (a) of this subsection. One change area, with an exit leading off the worksite, shall provide employees with a clean area where they can remove, store, and put on street clothing. The second area, with an exit to the worksite, shall provide employees with an area where they can put on, remove and store work clothing and personal protective equipment.

(c) Showers and change rooms shall be located in areas where exposures are below the (~~established~~) permissible exposure limits and published exposure levels. If this cannot be accomplished, then a ventilation system shall be provided that will supply air that is below the (~~established~~) permissible exposure limits and published exposure levels.

(d) Employers shall assure that employees shower at the end of their work shift and when leaving the hazardous waste site.

NEW SECTION

WAC 296-62-3138 NEW TECHNOLOGY PROGRAMS. (1) The employer shall develop and implement procedures for the introduction of effective new technologies and equipment developed for the improved protection of employees working with hazardous waste clean-up operations, and the same shall be implemented as part of the site safety and health program to assure that employee protection is being maintained.

(2) New technologies, equipment or control measures available to the industry, such as the use of foams, absorbents, adsorbents, neutralizers, or other means to suppress the level of air contaminants while excavating the site or for spill control, shall be evaluated by employers or their representatives. Such an evaluation shall be done to determine the effectiveness of the new methods, materials, or equipment before implementing their use on a large scale for enhancing employee protection. Information and data from manufacturers or suppliers may be used as part of the employer's evaluation effort. Such evaluations shall be made available to WISHA upon request.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3140 CERTAIN OPERATIONS CONDUCTED UNDER THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976 (RCRA). Employers conducting operations at treatment, storage, and disposal (TSD) facilities specified in WAC ~~((296-62-3060 (2)(c)))~~ 296-62-300 (3)(c) not exempted by WAC 296-62-300 (2)(c) shall ~~((:))~~ provide and implement the programs specified in this section.

(1) Safety and health program. The employer shall develop and implement a written safety and health program for employees involved in hazardous waste operations ~~((which))~~ that shall be available for inspection by employees, their representatives and WISHA personnel. The program shall be designed to identify, evaluate and control safety and health hazards in their facilities for the purpose of employee protection, ~~((and))~~ to provide for emergency response meeting the requirements of WAC 296-62-3110 and ~~((it shall))~~ to address as appropriate site analysis, engineering controls, maximum exposure limits, hazardous waste handling procedures and uses of new technologies~~((:))~~.

(2) Hazard communication program. The employer shall implement a hazard communication program ~~((as part of the employer's safety and health program))~~ meeting the requirements of WAC 296-62-054 through 296-62-05427~~((:))~~ as part of the employer's safety and health program.

Note: The exemption for hazardous waste provided in WAC 296-62-054 is applicable to this section.

(3) Medical surveillance program. The employer shall develop and implement a medical surveillance program meeting the requirements of WAC 296-62-3050~~((:))~~.

(4) Decontamination program. The employer shall develop and implement a decontamination procedure ~~((in accordance with))~~ meeting the requirements of WAC 296-62-3100~~((, and))~~.

(5) ~~((Develop and implement a training program, which is part of the employer's safety and health program, for employees involved with hazardous waste operations to enable each employee to perform their assigned duties and functions in a safe and healthful manner so as not to endanger themselves or other employees. The initial training shall be for twenty-four hours and refresher training shall be for eight hours annually.~~

Employers who can show by an employee's previous work experience and/or training that the employee has had training equivalent to the initial training required by this section, shall be considered as meeting the initial training of this section as to that employee. Equivalent training includes the training that existing employees might have already received from actual site work experience. Employees who have received the initial training required by this paragraph shall be given a written certificate attesting that they have successfully completed the necessary training.

~~((6))~~ New technology programs. ~~((a))~~ The employer shall develop and implement procedures ~~((for the introduction of effective new technologies and equipment developed for the improved protection of employees working with hazardous waste clean-up operations, and the same shall be implemented as part of the site safety and health program to assure that employee protection is being maintained.~~

~~((b)) New technologies, equipment, or control measures available to the industry, such as the use of foams or other means to suppress the level of air contaminants while excavating the site or for spill control, shall be evaluated by employers or their representatives to determine their effectiveness before implementing their use on a large scale for employee protection. Such evaluations shall be made available to WISHA upon request)) meeting the requirements of WAC 296-62-3138 for introducing new and innovative equipment into the workplace.~~

(6) Material handling program. Where employees will be handling drums or containers, the employer shall develop and implement procedures meeting the requirements of WAC 296-62-3090 (1)(b) through (h) and (k), as well as WAC 296-62-3090 (3) and (8), prior to starting such work.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3152 APPENDICES TO PART P—HAZARDOUS WASTE OPERATIONS AND EMERGENCY RESPONSE.

Note: The following appendices serve as nonmandatory guidelines to assist employees and employers in complying with the appropriate requirements of this part. However, WAC ~~((296-62-3170 - Appendix B is required in certain circumstances by WAC 296-62-3020 (4)(c) and 296-62-3060 (3)(d)))~~ 296-62-3060 makes mandatory in certain circumstances the use of Level A and Level B personal protective equipment protection.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3160 APPENDIX A—PERSONAL PROTECTIVE EQUIPMENT TEST METHODS. This appendix sets forth the nonmandatory examples of tests which may be used to evaluate compliance with WAC 296-62-3060. Other tests and other challenge agents may be used to evaluate compliance.

(1) Totally-encapsulating chemical protective suit pressure test.

(a) Scope.

(i) This practice measures the ability of a gas tight totally-encapsulating chemical protective suit material, seams, and closures to maintain a fixed positive pressure. The results of this practice allow the gas tight integrity of a total-encapsulating chemical protective suit to be evaluated.

(ii) Resistance of the suit materials to permeation, penetration, and degradation by specific hazardous substances is not determined by this test method.

(b) Description of terms.

(i) "Totally-encapsulated chemical protective suit (TECP suit)" means a full body garment which is constructed of protective clothing materials; covers the wearer's torso, head, arms, and legs; may cover the wearer's hands and feet with tightly attached gloves and boots; completely encloses the wearer and respirator by itself or in combination with the wearer's ~~((respiratory equipment;))~~ gloves~~((:))~~ and boots.

(ii) "Protective clothing material" means any material or combination of materials used in an item of clothing for the purpose of isolating parts of the body from direct contact with a potentially hazardous liquid or gaseous chemicals.

(iii) "Gas tight" means for the purpose of this ~~((practice))~~ test method the limited flow of a gas under pressure from the inside of a TECP suit to atmosphere at a prescribed pressure and time interval.

(c) Summary of test method. The TECP suit is visually inspected and modified for the test. The test apparatus is attached to the suit to permit inflation to the pretest suit expansion pressure for removal of suit wrinkles and creases. The pressure is lowered to the test pressure and monitored for three minutes. If the pressure drop is excessive, the TECP suit fails the test and is removed from service. The test is repeated after leak location and repair.

(d) Required supplies.

(i) Source of compressed air.

(ii) Test apparatus for suit testing including a pressure measurement device with a sensitivity of at least 1/4 inch water gauge.

(iii) Vent valve closure plugs or sealing tape.

(vi) Soapy water solution and soft brush.

(v) Stop watch or appropriate timing device.

(e) Safety precautions. Care shall be taken to provide the correct pressure safety devices required for the source of compressed air used.

(f) Test procedure. Prior to each test, the tester shall perform a visual inspection of the suit. Check the suit for seam integrity by visually examining the seams and gently pulling on the seams. Ensure that all

air supply lines, fittings, visor, zippers, and valves are secure and show no signs of deterioration.

(i) Seal off the vent valves along with any other normal inlet or exhaust points (such as umbilical air line fittings or facepiece opening) with tape or other appropriate means (caps, plugs, fixture, etc.). Care should be exercised in the sealing process not to damage any of the suit components.

(ii) Close all closure assemblies.

(iii) Prepare the suit for inflation by providing an improvised connection point on the suit for connecting an airline. Attach the pressure test apparatus to the suit to permit suit inflation from a compressed air source equipped with a pressure indicating regulator. The leak tightness of the pressure test apparatus should be tested before and after each test by closing off the end of the tubing attached to the suit and assuring a pressure of three inches water gauge for three minutes can be maintained. If a component is removed for the test, that component shall be replaced and a second test conducted with another component removed to permit a complete test of the ensemble.

(iv) The pretest expansion pressure (A) and the suit test pressure (B) shall be supplied by the suit manufacturer, but in no case shall they be less than (A) = 3 inches water gauge and (B) = 2 inches water gauge. The ending suit pressure (C) shall be no less than eighty percent of the test pressure (B); i.e., the pressure drop shall not exceed twenty percent of the test pressure (B).

(v) Inflate the suit until the pressure inside is equal to pressure ((^AA)) (A), the pretest expansion suit pressure. Allow at least one minute to fill out the wrinkles in the suit. Release sufficient air to reduce the suit pressure to pressure ((^BB)) (B), the suit test pressure. Begin timing. At the end of three minutes, record the suit pressure as pressure ((^EE)) (C), the ending suit pressure. The difference between the suit test pressure and the ending suit test pressure ((^BB)-(C)) shall be defined as the suit pressure drop.

(vi) If the suit pressure drop is more than twenty percent of the suit test pressure ((^BB)) (B) during the three minute test period, the suit fails the test and shall be removed from service.

(g) Retest procedure.

(i) If the suit fails the test check for leaks by inflating the suit to pressure ((^AA)) (A) and brushing or wiping the entire suit (including seams, closures, lens gaskets, glove-to-sleeve joints, etc.) with a mild soap and water solution. Observe the suit for the formation of soap bubbles, which is an indication of a leak. Repair all identified leaks.

(ii) Retest the TECP suit as outlined in (f) of this subsection.

(h) Report. Each TECP suit tested by this practice shall have the following information recorded.

(i) Unique identification number, identifying brand name, date of purchase, material of construction, and unique fit features; e.g., special breathing apparatus.

(ii) The actual values for test pressures ((^AA)) (A), ((^BB)) (B), and ((^EE)) (C) shall be recorded along with the specific observation times. If the ending pressure ((^EE)) (C) is less than eighty percent of the test pressure ((^BB)) (B), the suit shall be identified as failing the test. When possible, the specific leak location shall be identified in the test records. Retest pressure data shall be recorded as an additional test.

(iii) The source of the test apparatus used shall be identified and the sensitivity of the pressure gauge shall be recorded.

(iv) Records shall be kept for each pressure test even if repairs are being made at the test location.

Caution. Visually inspect all parts of the suit to be sure they are positioned correctly and secured tightly before putting the suit back into service. Special care should be taken to examine each exhaust valve to make sure it is not blocked. Care should also be exercised to assure that the inside and outside of the suit is completely dry before it is put into storage.

(2) Totally-encapsulating chemical protective suit qualitative leak test.

(a) Scope.

(i) This practice semiquantitatively tests gas tight totally-encapsulating chemical protective suit integrity by detecting inward leakage of ammonia vapor. Since no modifications are made to the suit to carry out this test, the results from this practice provide a realistic test for the integrity of the entire suit.

(ii) Resistance of the suit materials to permeation, penetration, and degradation is not determined by this test method. ASTM test methods are available to test suit materials for those characteristics and the tests are usually conducted by the manufacturers of the suits.

(b) Definition of terms.

(i) "Totally-encapsulated chemical protective suit (TECP suit)" means a full body garment which is constructed of protective clothing materials; covers the wearer's torso, head, arms, and legs; may cover the wearer's hands and feet with tightly attached gloves and boots; completely encloses the wearer and respirator by itself or in combination with the wearer's (~~(respiratory equipment)~~) gloves(;) and boots.

(ii) "Protective clothing material" means any material or combination of materials used in an item of clothing for the purpose of isolating parts of the body from direct contact with a potentially hazardous liquid or gaseous chemicals.

(iii) "Gas tight" means for the purpose of this test method the limited flow of a gas under pressure from the inside of a TECP suit to atmosphere at a prescribed pressure and time interval.

(iv) "Intrusion coefficient." A number expressing the level of protection provided by a gas tight totally-encapsulating chemical protective suit. The intrusion coefficient is calculated by dividing the test room challenge agent concentration by the concentration of challenge agent found inside the suit. The accuracy of the intrusion coefficient is dependent on the challenge agent monitoring methods. The larger the intrusion coefficient, the greater the protection provided by the TECP suit.

(c) Summary of recommended practice. The volume of concentrated aqueous ammonia solution (ammonia hydroxide, NH₄OH) required to generate the test atmosphere is determined using the directions outlined in WAC 296-62-3190 (2)(f)(i). The suit is donned by a person wearing the appropriate respiratory equipment (either a self-contained breathing apparatus or a supplied air respirator) and worn inside the enclosed test room. The concentrated aqueous ammonia solution is taken by the suited individual into the test room and poured into an open plastic pan. A two-minute evaporation period is observed before the test room concentration is measured using a high range ammonia length of stain detector tube. When the ammonia reaches a concentration of between 1000 and 1200 ppm, the suited individual starts a standardized exercise protocol to stress and flex the suit. After this protocol is completed the test room concentration is measured again. The suited individual exits the test room and his stand-by person measures the ammonia concentration inside the suit using a low range ammonia length of stain detector tube or other more sensitive ammonia detector. A stand-by person is required to observe the test individual during the test procedure, aid the person in donning and doffing the TECP suit and monitor the suit interior. The intrusion coefficient of the suit can be calculated by dividing the average test area concentration by the interior suit concentration. A colorimetric indicator strip of bromophenol blue is placed on the inside of the suit facepiece lens so that the suited individual is able to detect a color change and know if the suit has a significant leak. If a color change is observed the individual should leave the test room immediately.

(d) Required supplies.

(i) A supply of concentrated ammonia (fifty-eight percent ammonium hydroxide by weight).

(ii) A supply of bromophenol/blue indicating paper, sensitive to 5-10 ppm ammonia or greater over a two-minute period of exposure [pH 3.0 (yellow) to pH 4.6 (blue)].

(iii) A supply of high range (0.5-10 volume percent) and low range (5-700 ppm) detector tubes for ammonia and the corresponding sampling pump. More sensitive ammonia detectors can be substituted for the low range detector tubes to improve the sensitivity of this practice.

(iv) A shallow plastic pan (PVC) at least 12":14":1" and a half pint plastic container (PVC) with tightly closing lid.

(v) A graduated cylinder or other volumetric measuring device of at least fifty milliliters in volume with an accuracy of at least ±1 milliliters.

(e) Safety precautions.

(i) Concentrated aqueous ammonium hydroxide, NH₄OH is a corrosive volatile liquid requiring eye, skin, and respiratory protection. The person conducting the test shall review the MSDS for aqueous ammonia.

(ii) Since the established permissible exposure limit for ammonia is 50 ppm, only persons wearing a self-contained breathing apparatus or a supplied air respirator shall be in the chamber. Normally only the person wearing the total-encapsulating suit will be inside the chamber. A stand-by person shall have a self-contained breathing apparatus, or a positive pressure supplied air respirator(;) available to enter the test area should the suited individual need assistance.

(iii) A method to monitor the suited individual must be used during this test. Visual contact is the simplest but other methods using communication devices are acceptable.

(iv) The test room shall be large enough to allow the exercise protocol to be carried out and then to be ventilated to allow for easy exhaust of the ammonia test atmosphere after the test(s) are completed.

(v) Individuals shall be medically screened for the use of respiratory protection and checked for allergies to ammonia before participating in this test procedure.

(f) Test procedure.

(i) Measure the test area to the nearest foot and calculate its volume in cubic feet. Multiply the test area volume by 0.2 milliliters of concentrated aqueous ammonia per cubic foot of test area volume to determine the approximate volume of concentrated aqueous ammonia required to generate 1000 ppm in the test area.

(A) Measure this volume from the supply of concentrated ammonia and place it into a closed plastic container.

(B) Place the container, several high range ammonia detector tubes and the pump in the clean test pan and locate it near the test area entry door so that the suited individual has easy access to these supplies.

(ii) In a noncontaminated atmosphere, open a presealed ammonia indicator strip and fasten one end of the strip to the inside of the suit face shield lens where it can be seen by the wearer. Moisten the indicator strip with distilled water. Care shall be taken not to contaminate the detector part of the indicator paper by touching it. A small piece of masking tape or equivalent should be used to attach the indicator strip to the interior of the suit face shield.

(iii) If problems are encountered with this method of attachment the indicator strip can be attached to the outside of the respirator face-piece being used during the test.

(iv) Don the respiratory protective device normally used with the suit, and then don the TECP suit to be tested. Check to be sure all openings which are intended to be sealed (zippers, gloves, etc.) are completely sealed. Do NOT, however, plug off any venting valves.

(v) Step into the enclosed test room such as a closet, bathroom, or test booth, equipped with an exhaust fan. No air should be exhausted from the chamber during the test because this will dilute the ammonia challenge concentrations.

(vi) Open the container with the premeasured volume of concentrated aqueous ammonia within the enclosed test room, and pour the liquid into the empty plastic test pan. Wait two minutes to allow for adequate volatilization of the concentrated aqueous ammonia. A small mixing fan can be used near the evaporation pan to increase the evaporation rate of the ammonia solution.

(vii) After two minutes a determination of the ammonia concentration within the chamber should be made using the high range colorimetric detector tube. A concentration of 1000 ppm ammonia or greater shall be generated before the exercises are started.

(viii) To test the integrity of the suit the following four minute exercise protocol should be followed:

(A) Raising the arms above the head with at least fifteen raising motions completed in one minute.

(B) Walking in place for one minute with at least fifteen raising motions of each leg in a one-minute period.

(C) Touching the toes with at least ten complete motions of the arms from above the head to touching of the toes in a one-minute period.

(D) Knee bends with at least ten complete standing and squatting motions in a one-minute period.

(ix) If at any time during the test the colorimetric indicating paper should change colors the test should be stopped and (f)(x) and (xi) of this subsection initiated.

(x) After completion of the test exercise, the test area concentration should be measured again using the high range colorimetric detector tube.

(xi) Exit the test area.

(xii) The opening created by the suit zipper or other appropriate suit penetration should be used to determine the ammonia concentration in the suit with the low range length of stain detector tube or other ammonia monitor. The internal TECP suit air should be sampled far enough from the enclosed test area to prevent a false ammonia reading.

(xiii) After completion of the measurement of the suit interior ammonia concentration the test is concluded and the suit is doffed and the respirator removed.

(xiv) The ventilating fan for the test room should be turned on and allowed to run for enough time to remove the ammonia gas. The fan shall be vented to the outside of the building.

(xv) Any detectable ammonia in the suit interior (5 ppm ammonia (NH₃) or more for the length of stain detector tube) indicates the suit failed the test. When other ammonia detectors are used, a lower level of detection is possible and it should be specified as the pass/fail criteria.

(xvi) By following this test method an intrusion coefficient of approximately two hundred or more can be measured with the suit in a completely operational condition. If the intrusion coefficient is 200 or more, then the suit is suitable for emergency response and field use.

(g) Retest procedures.

(i) If the suit fails this test, check for leaks by following the pressure test in test ((A⁺)) (A) above.

(ii) Retest the TECP suit as outlined in the test procedure in (f) of this subsection(~~(f)~~ Test procedure)).

(h) Report.

(i) Each gas tight totally-encapsulating chemical protective suit tested by this practice shall have the following information recorded.

(A) Unique identification number, identifying brand name, date of purchase, material of construction, and unique suit features; e.g., special breathing apparatus.

(B) General description of test room used for test.

(C) Brand name and purchase date of ammonia detector strips and color change data.

(D) Brand name, sampling range, and expiration date of the length of stain ammonia detector tubes. The brand name and model of the sampling pump should also be recorded. If another type of ammonia detector is used, it should be identified along with its minimum detection limit for ammonia.

(E) Actual test results shall list the two test area concentrations, their average, the interior suit concentration, and the calculated intrusion coefficient. Retest data shall be recorded as an additional test.

(ii) The evaluation of the data shall be specified as "suit passed" or "suit failed" and the date of the test. Any detectable ammonia (5 ppm or greater for the length of stain detector tube) in the suit interior indicates the suit fails this test. When other ammonia detectors are used, a lower level of detection is possible and it should be specified as the pass/fail criteria.

Caution. Visually inspect all parts of the suit to be sure they are positioned correctly and secured tightly before putting the suit back into service. Special care should be taken to examine each exhaust valve to make sure it is not blocked.

Care should also be exercised to assure that the inside and outside of the suit is completely dry before it is put into storage.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3170 APPENDIX B—GENERAL DESCRIPTION AND DISCUSSION OF THE LEVELS OF PROTECTION AND PROTECTIVE GEAR. (1) This appendix sets forth information about personal protective equipment (PPE) protection levels which may be used to assist employers in complying with the PPE requirements of this section.

((+)) (2) As required by the standard, PPE must be selected which will protect employees from the specific hazards which they are likely to encounter during their work on-site.

((+)) (3) Selection of the appropriate PPE is a complex process which must take into consideration a variety of factors. Key factors involved in this process are identification of the hazards or suspected hazards, their routes of potential hazard to employees (inhalation, skin absorption, ingestion, and eye or skin contact), and the performance of the PPE materials (and seams) in providing a barrier to these hazards. The amount of protection provided by PPE is material-hazard specific. That is, protective equipment materials will protect well against some hazardous substances and poorly, or not at all, against others. In many instances, protective equipment materials cannot be found which will provide continuous protection from the particular hazardous substance. In these cases the breakthrough time of the protective material should exceed the work durations, or the exposure after breakthrough must not pose a hazardous level.

((+)) (4) Other factors in this selection process to be considered are matching the PPE to the employee's work requirements and task-specific conditions. The durability of PPE materials, such as tear strength and seam strength, must be considered in relation to the employee's tasks. The effects of PPE in relation to heat stress and task

duration are a factor in selecting and using PPE. In some cases layers of PPE may be necessary to provide sufficient protection, or to protect expensive PPE inner garments, suits or equipment.

((~~(c)~~)) (5) The more that is known about the hazards at the site, the easier the job of PPE selection becomes. As more information about the hazards and conditions at the site becomes available, the site supervisor can make decisions to up-grade or down-grade the level of PPE protection to match the tasks at hand.

((~~(2)~~)) (6) The following are guidelines which an employer can use to begin the selection of the appropriate PPE. As noted above, the site information may suggest the use of combinations of PPE selected from the different protection levels (i.e., A, B, C, or D) as being more suitable to the hazards of the work. It should be cautioned that the listing below does not fully address the performance of the specific PPE material in relation to the specific hazards at the job site, and that PPE selection, evaluation and reselection is an ongoing process until sufficient information about the hazards and PPE performance is obtained.

((~~(a)~~)) (7) Personal protective equipment has been divided into four categories based on the degree of protection afforded (see ((~~(b)~~ of this subsection)) subsection (8) of this section for further explanation of Levels A, B, C, and D hazards):

((~~(i)~~)) (a) Level A. To be selected when the greatest level of skin, respiratory, and eye protection is required. ((~~Level A equipment, used as appropriate.~~)) The following constitute Level A equipment; it may be used as appropriate:

((~~(A)~~ Pressure-demand)) (i) Positive pressure, full-facepiece self-contained breathing apparatus (SCBA), or ((~~pressure-demand~~)) positive pressure supplied-air respirator with escape SCBA, approved by the National Institute for Occupational Safety and Health (NIOSH).

((~~(B)~~)) (ii) Totally-encapsulating chemical-protective suit.
 ((~~(C)~~)) (iii) Coveralls.*
 ((~~(D)~~)) (iv) Long underwear.*
 ((~~(E)~~)) (v) Gloves, outer, chemical-resistant.
 ((~~(F)~~)) (vi) Gloves, inner, chemical-resistant.
 ((~~(G)~~)) (vii) Boots, ((~~outer,~~)) chemical-resistant steel toe and shank.

((~~(H)~~)) (viii) Hard hat (under suit).
 ((~~(I)~~)) (ix) Disposable protective suit, gloves, and boots. (Depending on suit construction, may be worn over totally-encapsulating suit.)

((~~(J)~~ Two-way radios (worn inside encapsulating suit:))

*Optional, as applicable.

((~~(ii)~~)) (b) Level B. The highest level of respiratory protection is necessary but a lesser level of skin protection is needed. The following constitute Level B equipment; it may be used as appropriate:

((~~(A)~~ Pressure-demand)) (i) Positive pressure, full-facepiece self-contained breathing apparatus (SCBA), or ((~~pressure-demand~~)) positive pressure supplied-air respirator with escape SCBA (NIOSH approved).

((~~(B)~~)) (ii) Hooded chemical-resistant clothing (coveralls and long-sleeved jacket, coveralls, one or two-piece chemical-splash suit, disposable chemical-resistant coveralls).

((~~(C)~~)) (iii) Coveralls.*
 ((~~(D)~~)) (iv) Gloves, outer, chemical-resistant.
 ((~~(E)~~)) (v) Gloves, inner, chemical-resistant.
 ((~~(F)~~)) (vi) Boots, outer, chemical-resistant steel toe and shank.
 ((~~(G)~~)) (vii) Boot-covers, outer, chemical-resistant (disposable).
 ((~~(H)~~)) (viii) Hard hat.
 ((~~(I)~~ Two-way radios (worn inside encapsulating suit:))
 ((~~(J)~~)) (ix) Face shield.*

*Optional, as applicable.

((~~(iii)~~)) (c) Level C. The concentration(s) and type(s) of airborne substance(s) ((~~is/are~~)) is known and the criteria for using air purifying respirators are met. The following constitute Level C equipment; it may be used as appropriate.

((~~(A)~~)) (i) Full-face or half-mask, air purifying((~~-canister equipped~~)) respirators (NIOSH approved).

((~~(B)~~)) (ii) Hooded chemical-resistant clothing (coveralls; two-piece chemical-splash suit; disposable chemical-resistant coveralls).

((~~(C)~~)) (iii) Coveralls.*
 ((~~(D)~~)) (iv) Gloves, outer, chemical-resistant.
 ((~~(E)~~)) (v) Gloves, inner, chemical-resistant.
 ((~~(F)~~)) (vi) Boots (outer), chemical-resistant steel toe and shank.*
 ((~~(G)~~)) (vii) Boot-covers, outer, chemical-resistant (disposable).
 ((~~(H)~~)) (viii) Hard hat.
 ((~~(I)~~)) (ix) Escape mask.*

((~~(J)~~ Two-way radios (worn under outside protective clothing:))
 ((~~(K)~~)) (x) Face shield.*

*Optional, as applicable.

((~~(iv)~~)) (d) Level D. A work uniform affording minimal protection: Used for nuisance contamination only. The following constitute Level D equipment; it may be used as appropriate.

((~~(A)~~)) (i) Coveralls.
 ((~~(B)~~)) (ii) Gloves.*
 ((~~(C)~~)) (iii) Boots/shoes, chemical-resistant steel toe and shank.
 ((~~(D)~~)) (iv) Boots, outer, chemical-resistant (disposable).
 ((~~(E)~~)) (v) Safety glasses or chemical splash goggles.*
 ((~~(F)~~)) (vi) Hard hat.
 ((~~(G)~~)) (vii) Escape mask.*
 ((~~(H)~~)) (viii) Face shield.*

*Optional, as applicable.

((~~(b)~~)) (8) Part B. The types of hazards for which Levels A, B, C, and D protection are appropriate are described below:

((~~(i)~~)) (a) Level A - Level A protection should be used when:

((~~(A)~~)) (i) The hazardous substance has been identified and requires the highest level of protection for skin, eyes, and the respiratory system based on either the measured (or potential for) high concentration of atmospheric vapors, gases, or particulates; or the site operations and work functions involve a high potential for splash, immersion, or exposure to unexpected vapors, gases, or particulates of materials that are harmful to skin or capable of being absorbed through the intact skin;
 ((~~(B)~~)) (ii) Substances with a high degree of hazard to the skin are known or suspected to be present, and skin contact is possible; or
 ((~~(C)~~)) (iii) Operations ((~~must be~~)) are being conducted in confined, poorly ventilated areas, and the absence of conditions requiring Level A have not yet been determined.

((~~(i)~~)) (b) Level B protection should be used when:

((~~(A)~~)) (i) The type and atmospheric concentration of substances have been identified and require a high level of respiratory protection, but less skin protection;

((~~Note: This involves atmospheres with IDLH concentrations of specific substances that do not represent a severe skin hazard, or that do not meet the criteria for use of air-purifying respirators.~~))

((~~(B)~~)) (ii) The atmosphere contains less than 19.5 percent oxygen; or
 ((~~(C)~~)) (iii) The presence of incompletely identified vapors or gases is indicated by a direct-reading organic vapor detection instrument, but vapors and gases are not suspected of containing high levels of chemicals harmful to skin or capable of being absorbed through the ((~~intact~~)) skin.

Note: This involves atmospheres with IDLH concentrations of specific substances that present severe inhalation hazards and that do not represent a severe skin hazard; or that do not meet the criteria for use of air-purifying respirators.

((~~(iii)~~)) (c) Level C protection should be used when:

((~~(A)~~)) (i) The atmospheric contaminants, liquid splashes, or other direct contact will not adversely affect or be absorbed through any exposed skin;

((~~(B)~~)) (ii) The types of air contaminants have been identified, concentrations measured, and an air-purifying respirator is available that can remove the contaminants; and

((~~(C)~~)) (iii) All criteria for the use of air-purifying respirators are met.

((~~(iv)~~)) (d) Level D protection should be used when:

((~~(A)~~)) (i) The atmosphere contains no known hazard; and

((~~(B)~~)) (ii) Work functions preclude splashes, immersion, or the potential for unexpected inhalation of or contact with hazardous levels of any chemicals.

Note: As stated before combinations of personal protective equipment other than those described for Levels A, B, C, and D protection may be more appropriate and may be used to provide the proper level of protection.

(9) As an aid in selecting suitable chemical protective clothing, it should be noted that the National Fire Protection Association is developing standards on chemical protective clothing. These standards are currently undergoing public review prior to adoption, including:

(a) NFPA 1991 - Standard on Vapor-Protective Suits for Hazardous Chemical Emergencies (EPA Level A Protective Clothing);

(b) NFPA 1991 - Standard on Liquid Splash-Protective Suits for Hazardous Chemical Emergencies (EPA Level B Protective Clothing);

(c) NFPA 1993 – Standard on Liquid Splash-Protective Suits for Nonemergency, Nonflammable Hazardous Chemical Situations (EPA Level B Protective Clothing).

(10) These standards would apply documentation and performance requirements to the manufacture of chemical protective suits. Chemical protective suits meeting these requirements would be labelled as compliant with the appropriate standard. When these standards are adopted by the National Fire Protection Association, it is recommended that chemical protective suits which meet these standards be used.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3180 APPENDIX C—COMPLIANCE GUIDELINES. (1) Occupational safety and health program. Each hazardous waste site clean-up effort will require an occupational safety and health program headed by the site coordinator or the employer's representative. The purpose of the program will be ~~((designed for))~~ the protection of employees at the site and will be an extension of the employer's overall safety and health program. ~~The ((purpose of the))~~ program will need to be developed before work begins on the site and implemented as work proceeds as stated in WAC 296-62-3010. The program is to facilitate coordination and communication of safety and health issues among personnel responsible for the various activities which will take place at the site. It will provide the overall means for planning and implementing the needed safety and health training and job orientation of employees who will be working at the site. The program will provide the means for identifying and controlling worksite hazards and the means for monitoring program effectiveness. The program will need to cover the responsibilities and authority of the site coordinator or the employer's manager on the site for the safety and health of employees at the site, and the relationships with contractors or support services as to what each employer's safety and health responsibilities are for their employees on the site. Each contractor on the site needs to have its own safety and health program so structured that it will smoothly interface with the program of the site coordinator or principal contractor. Also those employers involved with treating, storing, or disposal of hazardous waste as covered in WAC 296-62-3140 must have implemented a safety and health plan for their employees. This program is to include the hazard communication program required in WAC 296-62-3140(1) and the training required in WAC 296-62-3140 (4) and (5) as parts of the employers comprehensive overall safety and health program. This program is to be in writing.

(a) Each site or workplace safety and health program will need to include the following:

(i) Policy statements of the line of authority and accountability for implementing the program, the objectives of the program and the role of the site safety and health officer or manager and staff;

(ii) Means or methods for the development of procedures for identifying and controlling workplace hazards at the site;

(iii) Means or methods for the development and communication to employees of the various plans, work rules, standard operating procedures and practices that pertain to individual employees and supervisors;

(iv) Means for the training of supervisors and employees to develop the needed skills and knowledge to perform their work in a safe and healthful manner;

(v) Means to anticipate and prepare for emergency situations; and

(vi) Means for obtaining information feedback to aid in evaluating the program and for improving the effectiveness of the program. The management and employees should be trying continually to improve the effectiveness of the program thereby enhancing the protection being afforded those working on the site.

(b) Accidents on the site should be investigated to provide information on how such occurrences can be avoided in the future. When injuries or illnesses occur on the site or workplace, they will need to be investigated to determine what needs to be done to prevent this incident from occurring again. Such information will need to be used as feedback on the effectiveness of the program and the information turned into positive steps to prevent any recurrence. Receipt of employee suggestions or complaints relating to safety and health issues involved with site or workplace activities is also a feedback mechanism that ~~((needs to))~~ can be used effectively to improve the program and may serve in part as an evaluative tool(s).

~~((2))~~ Training:

~~(a) The employer is encouraged to utilize those training programs that have been recognized by the National Institute of Environmental~~

~~Health Sciences through its training grants program. These training and educational programs are being developed for the employees who work directly with hazardous substances. For further information about these programs contact: National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709.~~

~~((b))~~ (c) For the development and implementation of the program to be the most effective, professional safety and health personnel should be used. Certified safety professionals, board-certified industrial hygienists, or registered professional safety engineers are good examples of professional stature for safety and health managers who will administer the employer's program.

(2) The training programs for employees subject to the requirements of WAC 296-62-3040 are expected to address: The safety and health hazards employees should expect to find on sites; what control measures or techniques are effective for those hazards; what monitoring procedures are effective in characterizing exposure levels; what makes an effective employer's safety and health program; what a site safety and health plan should include; hands-on training with personal protective equipment and clothing they may be expected to use; the contents of the WISHA standard relevant to the employee's duties and functions; and, employee's responsibilities under WISHA and other regulations. Supervisors will need training in their responsibilities under the safety and health program and its subject areas such as the spill containment program, the personal protective equipment program, the medical surveillance program, the emergency response plan and other areas.

~~((c))~~ Training programs for emergency service organizations are available from the United States National Fire Academy, Emmitsburg, MD and the various state fire training schools. The International Society of Fire Service Instructors, Ashland, MA is another resource.

~~((d))~~ (a) The training programs for employees subject to the requirements of WAC 296-62-3140 should address: The employers safety and health program elements impacting employees; the hazard communication program; the medical surveillance program; the hazards and the controls for such hazards that employees need to know for their job duties and functions. All require annual refresher training.

(b) The training programs for employees covered by the requirements of WAC 296-62-3110(3) ~~((are expected to))~~ will address those competencies required for the various levels of response such as: The hazards associated with hazardous substances; hazard identification and awareness; notification of appropriate persons; the need for and use of personal protective equipment including respirators; the decontamination procedures to be used; preplanning activities for hazardous substance incidents including the emergency response plan; company standard operating procedures for hazardous substance emergency responses; the use of the incident command system and other subjects. Hands-on training should be stressed whenever possible. Critiques done after an incident which include any evaluation of what worked, and what did not, and how can we do better the next time, may be counted as training time.

~~((e))~~ (c) For hazardous materials specialists (usually members of hazardous materials teams), the training will need to address the care, use and/or testing of chemical protective clothing including totally encapsulating suits, the medical surveillance program, the standard operating procedures for the hazardous materials team including the use of plugging and patching equipment and other subject areas.

~~((f))~~ (d) Officers and leaders who may be expected to be in charge at an incident will need to be fully knowledgeable of their company's incident command system. They will need to know where and how to obtain additional assistance and be familiar with the local district's emergency response plan and the state emergency response plan.

~~((g))~~ (e) Specialist employees such as technical experts ~~((or))~~, medical experts, or environmental experts that work with hazardous materials in their regular jobs, who may be sent to the incident scene by the shipper, manufacturer or governmental agency to advise and assist the person in charge of the incident ~~((need not have monthly training sessions, however, they will be required to have the twenty-four hours of))~~ will have training on an annual basis. Their training must include the care and use of personal protective equipment including respirators; knowledge of the incident command system and how they are to relate to it; and those areas needed to keep them current in their respective field as it relates to safety and health involving specific hazardous substances.

~~((h))~~ (f) Those skilled support personnel, such as employees who work for public works departments or (special) equipment operators who operate bulldozers, sand trucks, backhoes, etc., who may be called to the incident scene to provide emergency support assistance, will

need to have at least a safety and health briefing before entering the area of potential or actual exposure. These specially skilled ((persons)) support personnel, who have not been a part of the emergency plan and do not meet the ((required)) training ((hours)) requirements, must be made aware of the hazards they face and be provided all necessary protective clothing and equipment required for their tasks. ((If respirators are to be worn, the specially skilled person shall be trained in accordance with WAC 296-62-071 through 296-62-07121 before proceeding into the hazardous area to do their assigned job.))

(3) Decontamination. Decontamination procedures ((should)) will be tailored to the specific hazards of the site and will vary in complexity, and number of steps, depending on the level of hazard and the employee's exposure to the hazard. Decontamination procedures and PPE decontamination methods will vary depending upon the specific substance, since one procedure or method will not work for all substances. Evaluation of decontamination methods and procedures should be performed, as necessary, to assure that employees are not exposed to hazards by reusing PPE. References in WAC 296-62-3190, Appendix D, may be used for guidance in establishing an effective decontamination program. In addition, the United States Coast Guard Manual, "Policy Guidance for Response to Hazardous Chemical Releases," United States Department of Transportation, Washington, D.C. (COMDTINST M16465.30), is a good reference for establishing an effective decontamination program.

(4) Emergency response plans. States, along with designated districts within the states, will be developing or have developed emergency response plans. These ((district)) state and ((state)) district plans are to be utilized in the emergency response plans called for in this standard. Each employer needs to assure that its emergency response plan is compatible with the local plan. ((In addition, the chemical manufacturers' association (CMA) is another helpful resource in formulating an effective emergency response plan. Also the current Emergency Response Guidebook from the United States Department of Transportation, CMA's CHEMTREC and the Fire Service Emergency Management Handbook should be used as resources.)) The major reference being used to aid in developing the state and local district plans is the Hazardous Materials Emergency Planning Guide, NRT-1. The current Emergency Response Guidebook from the United States Department of Transportation, CMA's CHEMTREC and the Fire Service Emergency Management Handbook may also be used as resources.

Employers involved with treatment, storage, and disposal facilities for hazardous waste, which have the required contingency plan called for by their permit, would not need to duplicate the same planning elements. Those items of the emergency response plan that are properly addressed in the contingency plan may be substituted into the emergency response plan required in WAC 296-62-3112 or otherwise kept together for employer and employee use.

(5) Personal protective equipment programs. The purpose of personal protective clothing and equipment (PPE) is to shield or isolate individuals from the chemical, physical, and biologic hazards that may be encountered at a hazardous substance site.

(a) As discussed in Appendix B, no single combination of protective equipment and clothing is capable of protecting against all hazards. Thus PPE should be used in conjunction with other protective methods and its effectiveness evaluated periodically.

(b) The use of PPE can itself create significant worker hazards, such as heat stress, physical and psychological stress, and impaired vision, mobility, and communication. For any given situation, equipment and clothing will be selected that provide an adequate level of protection. However, over-protection, as well as under-protection, can be hazardous and should be avoided where possible.

(c) Two basic objectives of any PPE program will be to protect the wearer from safety and health hazards, and to prevent injury to the wearer from incorrect use and/or malfunction of the PPE. To accomplish these goals, a comprehensive PPE program will include hazard identification, medical monitoring, environmental surveillance, selection, use, maintenance, and decontamination of PPE and its associated training.

(d) The written PPE program will include policy statements, procedures, and guidelines. Copies will be made available to all employees and a reference copy will be made available at the worksite. Technical data on equipment, maintenance manuals, relevant regulations, and other essential information will also be collected and maintained.

(6) Incident command system (ICS). WAC 296-62-3112 (3)(b) requires the implementation of an ICS. The ICS is an organized approach to effectively control and manage operations at an emergency

incident. The individual in charge of the ICS is the senior official responding to the incident. The ICS is not much different than the "command post" approach used for many years by the fire service. During large complex fires involving several companies and many pieces of apparatus, a command post would be established. This enables one individual to be in charge of managing the incident, rather than having several officers from different companies making separate, and sometimes conflicting, decisions. The individual in charge of the command post would delegate responsibility for performing various tasks to subordinate officers. Additionally, all communications were routed through the command post to reduce the number of radio transmissions and eliminate confusion. However, strategy, tactics, and all decisions were made by one individual.

(a) The ICS is a very similar system, except it is implemented for emergency response to all incidents, both large and small, that involve hazardous substances.

(b) For a small incident, the individual in charge of the ICS may perform many tasks of the ICS. There may not be any, or little, delegation of tasks to subordinates. For example, in response to a small incident, the individual in charge of the ICS, in addition to normal command activities, may become the safety officer and may designate only one employee (with proper equipment) as a back-up to provide assistance if needed. WISHA does recommend, however, that at least two employees be designated as back-up personnel since the assistance needed may include rescue.

(c) To illustrate the operation of the ICS, the following scenario might develop during a small incident, such as an overturned tank truck with a small leak of flammable liquid.

(d) The first responding senior officer would implement and take command of the ICS. That person would size-up the incident and determine if additional personnel and apparatus were necessary; would determine what actions to take to control the leak; and, determine the proper level of personal protective equipment. If additional assistance is not needed, the individual in charge of the ICS would implement actions to stop and control the leak using the fewest number of personnel that can effectively accomplish the tasks. The individual in charge of the ICS then would designate him or herself as the safety officer and two other employees as a back-up in case rescue may become necessary. In this scenario, decontamination procedures would not be necessary.

(e) A large complex incident may require many employees and difficult, time-consuming efforts to control. In these situations, the individual in charge of the ICS will want to delegate different tasks to subordinates in order to maintain a span of control that will keep the number of subordinates, that are reporting, to a manageable level.

(f) Delegation of tasks at large incidents may be by location, where the incident scene is divided into sectors, and subordinate officers coordinate activities within the sector that they have been assigned.

(g) Delegation of tasks can also be by function. Some of the functions that the individual in charge of the ICS may want to delegate at a large incident are: Medical services; evacuation; water supply; resources (equipment, apparatus); media relations; safety; and, site control (integrate activities with police for crowd and traffic control). Also for a large incident, the individual in charge of the ICS will designate several employees as back-up personnel; and a number of safety officers to monitor conditions and recommend safety precautions.

(h) Therefore, no matter what size or complexity an incident may be, by implementing an ICS there will be one individual in charge who makes the decisions and gives directions; and, all actions and communications are coordinated through one central point of command. Such a system should reduce confusion, improve safety, organize and coordinate actions, and should facilitate effective management of the incident.

(7) Site safety and control plans.

(a) The safety and security of response personnel and others in the area of an emergency response incident site should be of primary concern to the incident commander. The use of a site safety and control plan could greatly assist those in charge of assuring the safety and health of employees on the site.

(b) A comprehensive site safety and control plan should include the following: Summary analysis of hazards on the site and a risk analysis of those hazards; site map or sketch; site work zones (clean zone, transition or decontamination zone, work or hot zone); use of the buddy system; site communications; command post or command center; standard operating procedures and safe work practices; medical assistance and triage area; hazard monitoring plan (air contaminant monitoring, etc.); decontamination procedures and area; and other relevant areas.

This plan should be a part of the employer's emergency response plan or an extension of it to the specific site.

(8) Medical surveillance programs.

(a) Workers handling hazardous substances may be exposed to toxic chemicals, safety hazards, biologic hazards, and radiation. Therefore, a medical surveillance program is essential to assess and monitor workers' health and fitness for employment in hazardous waste operations and during the course of work; to provide emergency and other treatment as needed; and to keep accurate records for future reference.

(b) The Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities developed by the National Institute for Occupational Safety and Health (NIOSH), the Occupational Safety and Health Administration (OSHA), the United States Coast Guard (USCG), and the Environmental Protection Agency (EPA); October 1985 provides an excellent example of the types of medical testing that should be done as part of a medical surveillance program.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-3190 APPENDIX D—REFERENCES. The following references may be consulted for further information on the subject of this notice:

(1) ((WISHA Guidelines for Superfund and Other Hazardous Waste Site Activities, W.R.D. 84-13 as amended, October 24, 1986)) OSHA Instruction DFO CPL 2.70 - January 29, 1986, Special Emphasis Program: Hazardous Waste Sites.

(2) ((WISHA Hazardous Waste Activity Form, July 1986, WISHA Form F413-016-000)) OSHA Instruction DFO CPL 2-2.37A - January 29, 1986, Technical Assistance and Guidelines for Superfund and Other Hazardous Waste Site Activities.

(3) OSHA Instruction DTS CPL 2.74 - January 29, 1986, Hazardous Waste Activity Form, OSHA 175.

(4) Hazardous Waste Inspections Reference Manual, U.S. Department of Labor, Occupational Safety and Health Administration, 1986.

((44)) (5) Memorandum of Understanding Among the National Institute for Occupational Safety and Health, the Occupational Safety and Health Administration, the United States Coast Guard, and the United States Environmental Protection Agency; Guidance for Worker Protection During Hazardous Waste Site Investigations and Clean-up and Hazardous Substance Emergencies; December 18, 1980.

((55)) (6) National Priorities List, 1st Edition, October 1984; U.S. Environmental Protection Agency, Revised periodically.

((66)) (7) The Decontamination of Response Personnel, Field Standard Operating Procedures (F.S.O.P.) 7; U.S. Environmental Protection Agency, Office of Emergency and Remedial Response, Hazardous Response Support Division, December 1984.

((77)) (8) Preparation of a Site Safety Plan, Field Standard Operating Procedures (F.S.O.P.) 9; U.S. Environmental Protection Agency, Office of Emergency and Remedial Response, Hazardous Response Support Division, April 1985.

((88)) (9) Standard Operating Safety Guidelines; U.S. Environmental Protection Agency, Office of Emergency and Remedial Response, Hazardous Response Support Division, Environmental Response Team; November 1984.

((99)) (10) Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities, National Institute for Occupational Safety and Health (NIOSH), Occupational Safety and Health Administration (OSHA), U.S. Coast Guard (USCG), and Environmental Protection Agency (EPA); October 1985.

((100)) (11) Protecting Health and Safety at Hazardous Waste Sites: An Overview, U.S. Environmental Protection Agency, EPA/625/9-85/006; September 1985.

((111)) (12) Hazardous Waste Sites and Hazardous Substance Emergencies, NIOSH Worker Bulletin, U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health; December 1982.

((122)) (13) Personal Protective Equipment for Hazardous Materials Incidents: A Selection Guide; U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health; October 1984.

((133)) (14) Fire Service Emergency Management Handbook, International Association of Fire Chiefs Foundation, 101 East Holly Avenue, Unit 10B, Sterling, VA 22170, January 1985.

((144)) (15) Emergency Response Guidebook, U.S. Department of Transportation, Washington, D.C., ((1983)) 1987.

((155)) (16) Report to the Congress on Hazardous Materials Training, Planning and Preparedness, Federal Emergency Management Agency, Washington, D.C., July 1986.

((166)) (17) Workbook for Fire Command, Alan V. Brunacini and J. David Beageron, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, 1985.

((177)) (18) Fire Command, Alan V. Brunacini, National Fire Protection, Batterymarch Park, Quincy, MA 02269, 1985.

((188)) (19) Incident Command System, Fire Protection Publications, Oklahoma State University, Stillwater, OK 74078, 1983.

((199)) (20) Site Emergency Response Planning, Chemical Manufacturers Association, Washington, D.C. 20037, 1986.

(21) Hazardous Materials Emergency Planning Guide, NRT-1, Environmental Protection Agency, Washington, D.C., March 1987.

(22) Community Teamwork: Working Together to Promote Hazardous Materials Transportation Safety, U.S. Department of Transportation, Washington, D.C., May 1983.

(23) Disaster Planning Guide for Business and Industry, Federal Emergency Management Agency, Publication No. FEMA 141, August 1987.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-62-3150 START-UP DATES.

AMENDATORY SECTION (Amending Order 85-30, filed 10/22/85)

WAC 296-65-001 PURPOSE AND SCOPE. This standard regulates asbestos removal and encapsulation, requires ((minimum training for asbestos workers and establishes a training certification and notification program for asbestos projects)) contractor certification, specifies minimum training for supervisors and workers on asbestos projects, requires notification of asbestos projects, and establishes a training course approval program. This standard applies to the removal or encapsulation of any asbestos containing material with the exception of those materials containing less than one percent asbestos by volume.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-65-003 DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this ((chapter)) standard.

(1) "Approved" means approved by the department.

(2) "Asbestos" includes different forms of chrysotile, amosite, crocidolite, tremolite, anthophyllite and actinolite.

(3) "Asbestos fiber" means asbestos fiber as defined in WAC 296-62-07703.

(4) "Asbestos project" includes the construction, demolition, repair, remodeling, maintenance or renovation of any public or private building or structure, mechanical piping equipment or system involving the demolition, removal, encapsulation, salvage, or disposal of material or outdoor activity releasing or likely to release asbestos fibers into the air. Removal of vinyl asbestos tile (VAT), and asphaltic roofing materials is excluded from this definition, unless these items are removed by mechanical methods such as chipping, grinding, sanding, or sawing. Also excluded is any project in which there is a disturbance of asbestos of less than one square foot of total surface area of asbestos containing material (ACM), but this latter exclusion does not pertain to any disturbance of asbestos during a project dealing with pipe insulation.

(5) (("Auxiliary project" means a work activity which does not directly involve an asbestos project but which may disturb or expose asbestos or asbestos-containing materials.

(6)) "Certified asbestos contractor" means any partnership, firm, association, corporation or sole proprietorship, registered under chapter 18.27 RCW, that submits a bid, or contracts to remove or encapsulate asbestos for another, and is certified by the department to remove or encapsulate asbestos.

(6) "Certificate" means ((the)) a certificate issued by the department.

(7) "Certified asbestos supervisor" means an individual who is certified by the department under WAC 296-65-012.

(8) "Certified asbestos worker" means an individual ((who has successfully completed an approved asbestos training course and has received the certificate.

(8) "Contractor" includes any partnership, firm, association, corporation or sole proprietorship that contracts to perform the removal or encapsulation of asbestos)) certified by the department under WAC 296-65-010.

(9) "Department" means the department of labor and industries.

(10) "Demolition" means the activity of razing a structure which includes the wrecking ((σ)), removal, or dismantling of any load-supporting structural member of ((α)) any facility including any related handling operations.

(11) "Direct on-site supervision" means the supervision of no more than three workers by a certified asbestos ((worker)) supervisor who is physically present at all times at the asbestos project. It includes the authority to immediately correct any deficiencies on the project.

(12) "Director" means the director of the department of labor and industries or the director's designee.

(13) "Emergency project" means a project that was not planned but results from a sudden unexpected event and includes operations which are necessitated by nonroutine failures of equipment or systems.

(14) "Encapsulation" means the application of an encapsulant to asbestos containing materials to control the release of asbestos fibers into the air. The ((encapsulant)) encapsulation process either creates a membrane over the surface (bridging encapsulant), or penetrates the material and binds its components together (penetrating encapsulant).

((+3)) (15) "HEPA filtration" means high efficiency particulate air filtration found in respirators and vacuum systems capable of filtering 0.3 micron particles with 99.97% efficiency.

((+4)) (16) "NESHAP" means the National Emission Standards for Hazardous Air Pollutants.

((+5)) (17) "Owner" means the person who owns any public or private building, structure, facility, or mechanical system, or the remnants thereof, or the agent of such person, but does not include individuals who work on asbestos projects in their own single-family residences, no part of which is used for commercial purposes.

(18) "Person" means any individual, partnership, firm, association, corporation, sole proprietorship, or the state of Washington or its political subdivisions.

((+6)) "Removal" includes the stripping of any asbestos containing materials from the surface or components of a facility.

(+7) "Renovation" includes altering in any way one or more facility components. Operations in which load-supporting structural members are wrecked or removed are excluded.

(+8) "Repair" includes the restoration of asbestos containing insulation that has been damaged, usually located on pipes, boilers, tanks, turbines, ducts or other facility components. Repair usually consists of the application of duct tape, rewettable glass cloth, canvas, cement or other suitable material to seal exposed areas where asbestos fibers may be released. Repair of previously encapsulated asbestos containing materials may involve filling damaged areas with nonasbestos substitutes and reencapsulating. Repair of enclosures around asbestos containing materials is contemplated by this term.

(+9) "Structural component" includes any pipe, duct, boiler, tank, reactor, turbine or furnace at or in a facility or any structural member of a facility.

(20) "Structural member" means any load-supporting or non-load-supporting member of a facility such as beams, walls, and ceilings.

(21) "Structure" means an entire facility, building or major portion thereof, such as a building wing.)

(19) "Revocation" means a permanent withdrawal of a certification issued by the department.

(20) "Suspension" means a temporary withdrawal of a certification issued by the department. No suspension shall be less than six months or longer than one year.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-65-005 ASBESTOS WORKER TRAINING COURSE CONTENT. An approved ((basic)) asbestos worker training course shall consist of at least thirty hours of training. ((The)) This initial training course shall provide, at a minimum, information on the following topics:

(1) The physical characteristics of asbestos including types, fiber size, aerodynamic characteristics and physical appearance.

(2) Examples of different types of asbestos and asbestos containing materials. Real asbestos shall be used only for observation by trainees and shall be enclosed in sealed unbreakable containers.

(3) The health hazards of asbestos including the nature of asbestos related diseases, routes of exposure, dose-response relationships,

synergism between cigarette smoking and asbestos exposure, latency period of diseases, hazards to immediate family, and the health basis for asbestos standards.

(4) Employee personal protective equipment including the classes and characteristics of respirator types, limitations of respirators, proper selection, inspection, donning, use, maintenance and storage procedure, methods for field checking of the facepiece-to-face seal (positive and negative pressure checks), qualitative and quantitative fit testing procedures, variability between field and laboratory protection factors, factors that alter respirator fit (e.g., eye glasses and facial hair), the components of a proper respiratory protection program, respirator program administrator, requirements on oil lubricated reciprocating piston compressors for breathing air, and selection and use of personal protective clothing. Qualitative or quantitative fit testing shall be performed on at least one student for demonstration purposes, and in accordance with WAC 296-62-07715 and 296-62-07739.

(5) Use, storage and handling of launderable clothing, nonslip footwear, gloves, eye protection and hard hats.

(6) Medical monitoring procedures and requirements, including the provisions of WAC 296-62-071 through 296-62-07121 and 296-62-07725, any additional recommended procedures and tests, benefits of medical monitoring and employee access to records.

(7) Air monitoring procedures and requirements specified in WAC 296-62-07709, including a description of equipment, sampling methods and strategies, reasons for air monitoring, types of samples, including area, personal and clearance samples, current standards with proposed changes if any, employee observation and notification, recordkeeping and employee access to records, interpretation of air monitoring results, and analytical methods for bulk and air samples.

(8) State-of-the-art work practices for asbestos removal and encapsulation activities including purpose, proper construction and maintenance of barriers and decontamination enclosure systems, posting of warning signs, electrical and ventilation system lock-out, proper working techniques and tools with vacuum attachments for minimizing fiber release, use of wet methods and surfactants, use of negative pressure ventilation equipment for minimizing employee exposure to asbestos fibers and contamination prevention, scoring and breaking techniques for rigid asbestos products, glove bag techniques, use of HEPA vacuums and proper clean-up and disposal procedures. Work practice requirements for removal, encapsulation, enclosure ((and)), repair, and waste transportation shall be discussed individually. Appropriate work practices for both indoor and outdoor asbestos projects shall be included.

(9) Personal hygiene including entry and exit procedures for the work area, use of showers and prohibition of eating, drinking, smoking and chewing (gum or tobacco) in the work area.

(10) Additional safety hazards that may be encountered during asbestos removal and encapsulation activities and hazard abatement; including electrical hazards, scaffold and ladder hazards, slips, trips and falls, confined spaces, noise, and heat stress.

(11) The requirements, procedures and standards established by:

(a) The Environmental Protection Agency, 40 CFR Part 61, Subparts A and M.

(b) Washington state department of ecology.

(c) Local air pollution control agencies.

(d) Washington state department of labor and industries, division of industrial safety and health, chapter 49.17 RCW (Washington Industrial Safety and Health Act), chapter 49.17 RCW (Health and safety—Asbestos), and ensuing regulations.

(12) Actual worksite considerations.

(13) The instruction required by this section shall include, at a minimum, hands-on training for the following:

(a) Glove bag techniques;

(b) The opportunity to don respirators including half facepiece and full facepiece air purifying respirators, powered air purifying respirators (PAPR), and Type-C supplied-air respirators ((Qualitative or quantitative fit testing shall be performed on each student in accordance with WAC 296-62-07715 and 296-62-07739));

(c) Removal ((and repair)) of sprayed-on ((material)) or troweled-on material, and pipe lagging;

(d) Basic construction of a decontamination unit, and proper entry and exit;

(e) Suit-up in protective clothing consisting of coveralls, foot coverings and head coverings.

(14) Asbestos containing materials shall not be used for hands-on training.

(15) In recognition that asbestos abatement is an evolving industry, the department reserves the right to require additional subjects to be taught and to specify the amount of time which shall be allotted to adequately cover required subjects. To assure adequate coverage of required material, each sponsor shall be provided and required to incorporate into their training course, a detailed outline of subject matter developed by the department.

NEW SECTION

WAC 296-65-007 ASBESTOS SUPERVISOR TRAINING COURSE CONTENT. An approved asbestos supervisor training course shall consist of at least thirty hours of training. This initial training course shall include lectures, demonstrations, at least six hours of hands-on training, course review and a written examination. Audio-visual materials, where appropriate, are recommended to complement lectures. The training course shall provide, at a minimum, information on the following topics:

(1) The physical characteristics of asbestos, and asbestos containing materials including identification of asbestos, aerodynamic characteristics, typical uses, physical appearance, hazard assessment considerations, and a summary of abatement control options.

(2) Health effects related to asbestos exposure including the nature of asbestos related diseases, routes of exposure, dose-response relationships and the lack of a safe level of exposure, synergism between asbestos exposure and cigarette smoking, latency period, hazards to the immediate family and the health basis for the standard.

(3) Employee personal protective equipment including the classes and characteristics of respirator types, limitations of respirators, proper selection, inspection, donning, use, maintenance, and storage procedures, methods for field checking of the facepiece-to-face seal (positive and negative pressure checks), variability between field and laboratory protection factors, quantitative and qualitative fit test requirements, factors that alter respirator fit (facial hair, scars, etc.), the components of a proper respirator program, requirements for oil lubricated reciprocating compressors, maintenance of Type "C" systems, standards for breathing air, selection and use of personal protective clothing, use, storage, and handling of nondisposable clothing, and regulations covering personal protective equipment.

(4) State-of-the-art work practices for asbestos removal and encapsulation activities including purpose, proper construction and maintenance of barriers and decontamination enclosure systems, posting of warning signs, electrical and ventilation system lock-out, proper working techniques and tools with vacuum attachments for minimizing fiber release, use of wet methods and surfactants, use of negative pressure ventilation equipment for minimizing employee exposure to asbestos fibers and contamination prevention, scoring and breaking techniques for rigid asbestos products, glove bag techniques, use of HEPA vacuums and proper clean-up and disposal procedures. Work practice requirements for removal, encapsulation, and repair shall be discussed separately. Appropriate work practices for both indoor and outdoor asbestos projects shall be included.

(5) Personal hygiene including entry and exit procedures for the work area, use of showers and prohibition of eating, drinking, smoking, and chewing (gum and tobacco) in the work area. Potential exposures, such as family exposure shall also be included.

(6) Additional safety hazards that may be encountered during asbestos abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, scaffold and ladder hazards, slips, trips, and falls, confined space entry requirements, and noise hazards.

(7) Medical monitoring procedures and requirements, including the provisions of WAC 296-62-071 through 296-62-07121 and 296-62-07725, any additional recommended procedures and tests, benefits of medical monitoring and recordkeeping requirements.

(8) Air monitoring procedures and requirements specified in WAC 296-62-07709, including a description of equipment, sampling methods and strategies, reasons for air monitoring, types of samples, including area, personal and clearance samples, a description of aggressive sampling, current standards with proposed changes if any, employee observation and notification, recordkeeping, interpretation of air monitoring results, specifically from analyses performed by polarized light, phase contrast, and electron microscopy.

(9) The requirements, procedures, and standards established by:

- (a) The Environmental Protection Agency, 40 CFR Part 61, Subparts A and M.
- (b) The Washington state department of ecology.
- (c) Local air pollution control agencies.

(d) Washington state department of labor and industries, division of industrial safety and health, chapter 49.17 RCW (Washington Industrial Safety and Health Act), chapter 49.26 RCW (Health and safety—Asbestos), and ensuing regulations.

(10) Actual worksite considerations.

(11) Insurance and liability issues including contractor issues, industrial insurance coverage and exclusions, third party liabilities and defenses, private insurance coverage and exclusions, recordkeeping recommended for legal and insurance purposes.

(12) Supervisory techniques for asbestos abatement projects including supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices.

(13) Contract specifications including a discussion of the key elements to be included in contract specifications.

(14) Hands-on training for the following:

(a) Calibration of air-sampling equipment;

(b) Routine maintenance of air-purifying and air-supplied respirators;

(c) Setup of a decontamination unit including calculating the number of negative air machines needed as well as proper placement of the machines within the enclosure; and

(d) Quantitative and qualitative fit-testing protocols.

(15) In recognition that asbestos abatement is an evolving industry, the department reserves the right to require additional subjects to be taught and to specify the amount of time which shall be allotted to adequately cover required subjects. To assure adequate coverage of required material, each sponsor shall be provided and required to incorporate into their training course, a detailed outline of subject matter developed by the department.

AMENDATORY SECTION (Amending Order 85-30, filed 10/22/85)

WAC 296-65-010 ASBESTOS WORKER CERTIFICATION.

(1) For the purposes of this section "individual" means any natural person.

~~(2) (Individuals shall pass, in a manner approved by the department, a written examination relevant to the safe performance of asbestos related activities.~~

~~(a) Upon successful completion of an approved training course the department will issue a certificate.~~

~~(b) To be considered timely, an application for an asbestos worker certificate must be received by the department no later than 60 days after the completion date of an approved training course.) To qualify for an asbestos worker certificate, an individual must do the following:~~

~~(a) Successfully complete an approved asbestos worker training course;~~

~~(b) Achieve a score of at least seventy percent on a one hundred question multiple choice examination approved by the department but administered by the training course sponsor;~~

~~(c) Submit to the department a timely application validated by an approved training course sponsor. To be considered timely, an application must be received by the department not later than sixty days after the completion of the course. In the event that an application is not timely, the individual shall be required to pass, with a score of at least seventy percent, an examination administered by the department. A nonrefundable fifty dollar assessment shall be charged to take this examination; and~~

~~(d) Pay the fee prescribed in WAC 296-65-025.~~

~~(3) Individuals shall not perform any asbestos ((project)) abatement work prior to issuance of the certificate.~~

~~((The)) (4) Certificates shall be issued and mailed to the individual applicants and shall be valid for ((two)) one year((s)) from the date of issuance.~~

~~((4)) (5) Certified asbestos workers shall attend a ((7)) seven-hour refresher course prior to certificate renewal.~~

~~(a) The course shall, at a minimum, adequately review the subjects required by WAC 296-65-005, update information on state-of-the-art procedures and equipment, and review regulatory changes and interpretations. Specific subjects may be required by the department.~~

~~(b) An application for renewal of the certificate must be ((accompanied by proof of attendance in an approved)) validated by the refresher training course instructor.~~

~~(c) ((To be considered timely, the certificate renewal application must be received by the department no later than 60 days after the certificate expiration date)) The refresher course must be taken prior to expiration of the certificate, but may not be taken more than sixty days prior to expiration of the original or current certificate.~~

(d) The certificate renewal application must be received by the department no later than the expiration date of the current certificate. Applicants missing this renewal deadline shall be required to pass, with a score of seventy percent, an examination administered by the department. A nonrefundable fifty dollar fee will be charged to take this examination.

(e) Individuals whose certificates have been expired for more than six months will be required to retake the entire thirty-hour basic course.

~~((5))~~ (6) The certificate shall be available for inspection at all times during an asbestos project.

~~((6))~~ (7) The department may suspend or revoke a certificate ~~((for failure of the holder to comply with any applicable health or safety standards))~~ as provided in WAC 296-65-050 and chapter 296-350 WAC.

NEW SECTION

WAC 296-65-012 ASBESTOS SUPERVISOR CERTIFICATION. (1) For the purposes of this section, "individual" means any natural person.

(2) To qualify for an asbestos supervisor certificate, an individual must do the following:

(a) Be a certified asbestos worker as prescribed in WAC 296-65-010 for at least one year;

(b) Successfully complete an approved asbestos supervisor training course;

(c) Achieve a score of at least seventy percent on a one hundred question multiple choice examination approved by the department but administered by the training course sponsor;

(d) Submit to the department a timely application validated by an approved training course sponsor. To be considered timely, an application must be received by the department no later than sixty days after the completion of the course. In the event that an application is not timely, the individual shall be required to pass, with a score of at least seventy percent, an examination administered by the department. A nonrefundable fifty dollar assessment shall be charged to take this examination; and

(e) Pay the fee prescribed in WAC 296-65-025.

(3) Individuals shall not supervise any asbestos abatement work prior to issuance of the certificate.

(4) Certificates shall be issued and mailed to the individual applicants and shall be valid for one year from the date of issuance.

(5) Certified asbestos supervisors shall attend a seven-hour supervisor refresher course prior to certificate renewal. It shall not be necessary to also take a worker refresher course.

(a) The course shall, at a minimum, adequately review the subjects required by WAC 296-65-007, update information on state-of-the-art procedures and equipment, and review regulatory changes and interpretations. Specific subjects may be required by the department.

(b) An application for renewal of the certificate must be validated by the refresher training course instructor.

(c) The refresher course must be taken prior to expiration of the certificate, but may not be taken more than sixty days prior to expiration of the original or current certificate.

(d) The certificate renewal application must be received by the department no later than the expiration date of the current certificate. Applicants missing this renewal deadline shall be required to pass, with a score of seventy percent, an examination administered by the department. A nonrefundable fifty dollar fee will be charged to take this examination.

(e) Individuals whose certificates have been expired for more than six months will be required to retake the entire thirty-hour basic course.

(6) The certificate shall be available for inspection at all times during an asbestos project.

(7) The department may suspend or revoke a certificate as provided in WAC 296-65-050 and chapter 296-350 WAC.

(8) Individuals who have completed the "competent person" training previously recognized by the department after January 1, 1987, need not comply with the requirements set forth in subsection (2) of this section and shall be issued asbestos supervisor certificates provided the following conditions are met:

(a) Be a certified asbestos worker as prescribed in WAC 296-65-010 for at least one year;

(b) Provide documentation of successful completion of a recognized "competent person" training course;

(c) Pass, with a score of at least seventy percent, an examination administered by the department. A nonrefundable fifty dollar assessment shall be charged to take this examination; and

(d) This subsection shall expire on June 30, 1990. Thereafter any individual who has completed "competent person" training shall obtain an asbestos supervisor certificate by complying with the requirements set forth in subsection (2) of this section.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-65-015 TRAINING COURSE ~~((CERTIFICATION))~~ APPROVAL. (1) Basic and refresher asbestos training courses may be ~~((provided))~~ sponsored by any individual, person, ~~((environmental health consulting firm, union, trade association, educational institution, public health organization, individual, governmental agency,))~~ or other entity having department approval.

~~((1))~~ (2) Prior to receiving department approval, each course shall be evaluated by the department for the breadth of knowledge and experience required to properly train asbestos workers or supervisors. Course content shall be carefully scrutinized for adequacy and accuracy. Training techniques will be evaluated by the department.

~~((2))~~ (3) Sponsors of basic and refresher training courses proposed for approval must submit:

(a) Background information about course sponsors;

(b) Course locations and fees;

(c) Copies of course handouts;

(d) A detailed description of course content and the amount of time allotted to each major topic;

(e) A description of teaching methods to be utilized and a list of all audio-visual materials; the department may, in its discretion, request that copies of the materials be provided for review. Any audio-visual materials provided to the department will be returned to the applicant;

(f) A list of all personnel involved in course preparation and presentation and a description of the background, special training and qualifications of each. The department may, in its discretion, require proposed instructors to pass an examination on subjects related to their respective topics of instruction;

(g) A description of student evaluation methods and a copy of the required written examination including the scoring methodology to be used in grading the examination;

(h) A description of course evaluation methods; and

(i) Any restrictions on attendance (language, class size, affiliation, etc.).

~~((3))~~ (4) Application for training course approval and course materials shall be submitted to the department at least ~~((forty-five))~~ sixty days prior to the requested approval date. Materials may be mailed to:

Asbestos Certification Program
Department of Labor and
Industries, HC-412
805 Plum Street S.E.
P.O. Box 207
Olympia, Washington 98504

~~((4))~~ Upon (5) The decision to grant or renew approval of a basic or refresher asbestos training course ~~((;))~~ shall be in the sole discretion of the department ~~((will issue the course sponsor a certificate. The certificate is valid for one year from the date of issuance. Application for renewal must follow the procedures described in subsections (2) and (3) of this section)).~~

Following approval of a basic or refresher asbestos training course, the department will issue the course sponsor an approval which is valid for one year from the date of issuance. Application for renewal must follow the procedures described in subsections (3) and (4) of this section.

Following approval of a basic or refresher asbestos training course, in recognition that asbestos abatement is an evolving industry, the department reserves the right to require additional subjects to be taught and to specify the amount of time which shall be allotted to adequately cover required subjects. To assure adequate coverage of required material, each sponsor shall be provided and required to incorporate into their training course, a detailed outline of subject matter developed by the department.

~~((5))~~ (6) To be considered timely, the training course ~~((certificate))~~ approval renewal must be received by the department no later than ~~((sixty))~~ thirty days ~~((after))~~ before the certificate expiration date.

~~((6))~~ (7) Any changes to a training course must be approved by the department in advance.

~~((7))~~ (8) The course sponsor shall provide the department with a list of all persons who have completed a basic or refresher training course. The list must be provided no later than ten days after a course is completed and must include the name and address of each trainee.

~~((8))~~ (9) The course sponsor must notify the department, in writing, at least ~~((one week))~~ thirty days before a training course is scheduled to begin. The notification must include the date, time and address where the training will be conducted.

~~((9))~~ (10) A representative of the department may, at the department's discretion, attend a training course as an observer to verify that the training course is conducted in accordance with the program approved by the department.

~~((10))~~ The department may suspend or revoke the certification of a training course if its sponsor fails to maintain the course content and quality as initially approved.)

(11) Course sponsors conducting training outside of the state of Washington shall reimburse the department for reasonable travel expenses associated with department audits of the training courses. Reasonable travel expenses are defined as current state of Washington per diem and travel allowance rates including airfare and/or surface transportation rates. Such reimbursement shall be paid within thirty days of receipt of the billing notice.

(12) The training course sponsor shall limit each class to a maximum of thirty participants.

~~((12))~~ (13) The instructor to student ratio shall not exceed one-to-ten for any of the training required by WAC 296-65-005(13).

(14) The department may terminate the training course approval, if in the department's judgment the sponsor fails to maintain the course content and quality as initially approved, or fails to make changes to a course as required by WAC 296-65-015(5).

Any "notice of termination of training course approval" issued by the department may act as an order of immediate restraint as described by RCW 49.17.130.

NEW SECTION

WAC 296-65-017 CONTRACTOR CERTIFICATION. (1) In order to obtain certification, an asbestos contractor must submit an application to the department. The application shall provide the following information:

(a) A list of asbestos projects conducted by the contractor during the previous twelve months. Such list shall include for each project:

(i) Project name;

(ii) Location;

(iii) Brief description;

(iv) Identity of any citations or enforcement actions issued for violations of asbestos regulations by any local, state, or federal jurisdiction relative to each individual project; and

(v) Name of the on-site project manager or supervisor.

(b) A list of asbestos supervisors (include certification number) working for the company.

(c) A statement certifying that the contractor has read and understands all applicable Washington state rules and regulations regarding asbestos abatement and will comply with them.

(d) A statement certifying that the applicant contractor's asbestos license or accreditation issued by any other state or jurisdiction has not been revoked, suspended, or denied by that state or jurisdiction.

(2) Upon approval, the department will issue the contractor a certificate. Denial of approval shall be in writing.

(3) Certificates shall be valid for a period of twelve months. Certificates may be extended during department review of a renewal application.

Note: In circumstances where it is necessary to coordinate an expiration date with the date of expiration of a contractor registration issued under chapter 18.27 RCW, certificates may be valid for less than one year. In such circumstances, the certificate fee prescribed in WAC 296-65-025 shall be prorated accordingly.

(4) The application for certificate renewal shall contain the information specified in subsection (1) of this section.

(5) Applications for renewal must be received by the department not less than sixty days before the certificate expires.

(6) The department may suspend or revoke the certificate as provided in WAC 296-65-050 and chapter 296-350 WAC.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-65-020 NOTIFICATION REQUIREMENTS. ~~((A copy of any notice of intention to demolish or renovate a facility required to be filed with a federal, state, or local air pollution control agency shall be sent directly to the department by each person whose employees, if any, are renovating or demolishing any structure. Notices must be received within the same time periods required by the federal, state, or local agency and may be mailed to:~~

~~Asbestos Certification Program
Department of Labor and
Industries, HC-412
805 Plum Street S.E.
P.O. Box 267
Olympia, Washington 98504.)~~

(1) Before any person or individual begins an asbestos project involving more than forty-eight square feet or ten linear feet, unless the surface area of the pipe is greater than forty-eight square feet, of asbestos containing material, written notification shall be provided to the department. Notices shall include:

(a) Name and address of the owner and contractor.

(b) Description of the facility including size, age, and prior use of the facility.

(c) Amount of asbestos containing material to be removed or encapsulated.

(d) Location of the facility.

(e) Exact starting and completion dates of the asbestos project, including shifts during which abatement work will be accomplished. These dates must correspond to the dates specified in the contract. Any change in these dates or work shifts shall be communicated to the department by an amended notice.

(f) Nature of the project and methods used to remove or encapsulate the material.

(2) Failure to provide such notification will result in the loss of the exemption specified in WAC 296-65-030.

(3) Notices must be received by the department no later than ten days prior to the start of the project. Notices shall be sent directly to the department of labor and industries regional office having jurisdiction on the project.

(4) The director may waive the prenotification requirement upon written request of an owner for large-scale, on-going projects. In granting such a waiver, the director shall require the owner to provide prenotification if significant changes in personnel, methodologies, equipment, work site, or work procedures occur or are likely to occur. The director shall further require annual resubmission of such notification.

(5) The director, upon review of an owner's reports, work practices, or other data available as a result of inspections, audits, or other authorized activities, may reduce the size threshold for prenotification required by this section. Such a change shall be based on the director's determination that significant problems in personnel, methodologies, equipment, work site, or work procedures are creating the potential for violations of this chapter.

(6) Emergency projects which disturb or release asbestos into the air shall be reported to the department within three working days after commencement of the project in the manner otherwise required under this chapter. The employees, the employees' collective bargaining representative or employee representative, if any, and other persons at the project area shall be notified of the emergency as soon as possible by the person undertaking the emergency project. A notice describing the nature of the emergency project shall be clearly posted adjacent to the work area.

(7) Incremental phasing in the conduct or design of asbestos projects or otherwise conducting or designing asbestos projects of a size less than the threshold exemption specified in subsection (1) of this section, with the intent of avoiding the notification requirements, is a violation of this chapter.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-65-025 ~~((CERTIFICATE))~~ FEES. (1) A nonrefundable administrative fee of twenty-five dollars shall be assessed for each initial or renewal asbestos worker certificate application. The fee (check or money order) must accompany the certificate application and be made payable to the department. An application form may be

obtained from any approved training course instructor or directly from the department.

(2) A nonrefundable administrative fee of ~~((one hundred fifty))~~ thirty-five dollars shall be assessed for each initial or renewal ~~((application for training course approval. A check or money order shall accompany any application made under the provisions of WAC 296-65-015 and be made payable to the department.))~~ asbestos supervisor certificate application. The fee (check or money order) must accompany the certificate application and be made payable to the department. An application form may be obtained from any approved training course instructor or directly from the department.

(3) A nonrefundable administrative fee of one thousand dollars shall be assessed for each initial or renewal contractor certificate application. The fee (check or money order) must accompany the certificate application and be made payable to the department. An application form may be obtained from the department.

Note: In circumstances where it is necessary to coordinate an expiration date with the date of expiration of a contractor registration issued under chapter 18.27 RCW, certificates may be valid for less than one year. In such circumstances, the certificate fee prescribed in WAC 296-65-025 shall be prorated accordingly.

(4) A nonrefundable administrative fee of one thousand dollars shall be assessed for each initial and renewal application for training course approval. A check or money order shall accompany any application made under the provisions of WAC 296-65-015.

AMENDATORY SECTION (Amending Order 87-06, filed 4/27/87)

WAC 296-65-030 METHODS OF COMPLIANCE. (1) ~~((No contractor, employee, or other individual is eligible to work on an asbestos project unless properly issued a certificate by the department, except in the case of an asbestos project undertaken by any partnership, firm, corporation or sole proprietorship in its own facility and by its own employees under the direct on-site supervision of a certified asbestos worker.~~

Note: This exception does not apply to the state of Washington or its political subdivisions.

~~((2) No person may assign any employee, contract with or permit any individual or person to remove or encapsulate asbestos in any facility unless performed by a certified asbestos worker except in the case of an asbestos project undertaken by any partnership, firm, corporation or sole proprietorship in its own facility and by its own employees under the direct on-site supervision of a certified asbestos worker.~~

~~Note:)) Before submitting a bid or working on an asbestos abatement project, any person or individual shall obtain an asbestos contractor certificate as provided in WAC 296-65-017 and shall have in its employ at least one certified asbestos supervisor responsible for supervising all asbestos projects undertaken by the contractor.~~

~~((2) A certified asbestos supervisor will not be required on projects involving less than forty-eight square feet or ten linear feet of asbestos containing material unless the surface area of the pipe is greater than forty-eight square feet.~~

~~((3) No employee or other individual is eligible to do work or supervise an asbestos project without being issued a certificate by the department except, in the case of an asbestos project undertaken by any partnership, firm, association, corporation, or sole proprietorship, and conducted in its own facility, and by its own employees under the direct, on-site supervision of a certified asbestos supervisor. This exception does not apply to the state of Washington or its political subdivisions.~~

~~((3)) ~~((4))~~ (4) No person may assign any employee, contract with, or permit any individual, to remove or encapsulate asbestos in any facility, without the project being performed by a certified asbestos worker and under the direct, on-site supervision of a certified asbestos supervisor, except, in the case of an asbestos project undertaken by any partnership, firm, association, corporation, or sole proprietorship, and conducted in its own facility and by its own employees under the direct, on-site supervision of a certified asbestos supervisor.~~

~~((5) Any partnership, firm, association, corporation, or sole proprietorship that begins any construction, renovation, remodeling, maintenance, repair, or demolition project without meeting the requirements of WAC 296-62-07707 and the notification requirements as provided in subsection (6) of this section, shall lose the exemptions provided in subsections (3) and (4) of this section.~~

~~((6) In cases excepted under subsections ~~((4))~~ (3) and ~~((2))~~ (4) of this section ~~((the partnership, firm, corporation or sole proprietorship shall annually submit a written description to the department which includes at least the following information):~~~~

~~((a) Direct on-site supervision by a certified asbestos supervisor shall be required for asbestos projects performed at one project location by workers who are not certified.~~

~~((b) If a project is conducted using only certified workers, or if a certified worker functions as a foreman or lead person, supervision can be performed in the regular course of a supervisor's duties and need not be direct and on-site.~~

~~((c) The partnership, firm, association, corporation, or sole proprietorship shall annually submit to the department, a written description which includes at least the following information:~~

~~((i) The kinds of asbestos projects expected to be undertaken during a period of time not to exceed one year from the date of submission;~~

~~((ii) The procedures to be used in undertaking the asbestos projects;~~

~~((iii) Methods of compliance with ~~((chapters 296-62, 296-65, and 296-155 WAC))~~ applicable department regulations;~~

~~((iv) Methods of compliance with any additional procedures required by law for the safe demolition, removal, encapsulation, salvage, and disposal of asbestos; ~~((and))~~~~

~~((v) A copy of the written inspection report or statement as required by WAC 296-62-07707; and~~

~~((vi) The name, address and certification number of the supervising certified asbestos ~~((worker))~~ supervisor.~~

~~((4)) (7) The written descriptions required ~~((by))~~ in this section shall be submitted to the department prior to ~~((commencement of work))~~ commencing any project described.~~

~~((4)) (8) A further written description must be submitted to the department prior to commencing a project, if previously unidentified or new asbestos projects are proposed during the one year period covered by the written description submitted to the department in accordance with ~~((WAC 296-65-030(3), previously unidentified or new asbestos projects are proposed))~~ subsection (6) of this section.~~

~~((4)) (9) Written descriptions, shall be mailed to:~~

Asbestos Certification Program,
Department of Labor and
Industries, HC-412
805 Plum Street S.E.
P.O. Box 207
Olympia, Washington 98504.

~~((10) In addition to losing the exemption in subsection (5) of this section, any partnership, firm, association, corporation, or sole proprietorship who fails to comply with subsections (6) through (9) of this section shall be subject to a mandatory fine of not less than two hundred fifty dollars for each violation. Each day the violation continues shall be considered a separate violation. In addition, any construction, renovation, remodeling, maintenance, repair, or demolition which was started without meeting the requirements of this section shall be halted immediately and cannot be resumed before meeting such requirements.~~

NEW SECTION

WAC 296-65-035 RECIPROCITY. (1) The department may recognize certifications issued by another state for asbestos workers or supervisors provided that:

(a) The worker is in possession of a currently valid certification from the other state; and

(b) The department evaluates the other state's qualification procedures and determines the certification to be equivalent to the minimum requirements of this chapter.

(2) When the department's evaluation of another state's qualification procedures identifies that equivalent requirements are met, the department is authorized to issue a Washington state certification upon receipt of a completed application.

(3) When the department's evaluation of another state's qualification procedures identifies deficiencies, the department may require specific supplemental training and/or examination before issuing a Washington state certification.

(4) Workers or supervisors certified by another state may renew their certification for a Washington certification by successfully completing a Washington state approved standard seven-hour refresher course and submitting application to the department in compliance with this chapter.

NEW SECTION

WAC 296-65-050 DENIAL, SUSPENSION, AND REVOCATION OF CERTIFICATES. (1) The department may deny, suspend, or revoke a certificate for failure of the holder to comply with any requirement of this chapter, or any applicable health and safety standards and regulations.

(2) In addition to any civil penalty imposed under WAC 296-62-07707 and 296-65-030, the department may suspend or revoke any certificate issued under this chapter for a period of not less than six months upon the following grounds:

- (a) The certificate was obtained through error or fraud; or
(b) The holder thereof is judged to be incompetent to carry out the work for which the certificate was issued.

(3) Before any certificate may be denied, suspended, or revoked, the holder thereof shall be given written notice of the department's intention to do so, mailed by registered mail, return receipt requested, to the holder's last known address. The notice shall enumerate the allegations against such holder, and shall give him or her the opportunity to request a conference before the department. At such conference, the department and the holder shall have opportunity to produce witnesses and give testimony.

(4) A denial, suspension, or revocation order may be appealed to the board of industrial insurance appeals within fifteen working days after the denial, suspension, or revocation order is entered. The notice of appeal may be filed with the department or the board of industrial insurance appeals. The board of industrial insurance appeals shall hold the hearing in accordance with procedures established in RCW 49.17.140. Any party aggrieved by an order of the board of industrial insurance appeals may obtain superior court review in the manner provided in RCW 49.17.150.

AMENDATORY SECTION (Amending Order 80-20, filed 11/13/80)

WAC 296-115-030 MASTER'S EXAMINATION AND LICENSING. (1) The registered owner of passenger vessels for hire ((will be) is responsible to ((require a United States Coast Guard)) obtain an operator's license from the United States Coast Guard or the department for the master or operator of each vessel. A physical examination will be required.

(2) The department shall penalize any person who acts as a master or operator on a vessel without having first received a United States Coast Guard license, or without having a valid license in his or her possession, or upon a vessel or class of vessels not specified in the license.

(3) The department may recommend suspension or revocation of a license to the United States Coast Guard for intemperance, incompetence, or a negligent, reckless, or willful disregard for duty.

AMENDATORY SECTION (Amending Order 80-20, filed 11/13/80)

WAC 296-115-120 ANNUAL FEE SCHEDULE.

((ANNUAL CERTIFICATE OF INSPECTION FEE

Table with 2 columns: Description of vessel type and length, and Fee amount. Includes rows for passenger vessels up to 30 ft. long, 30 ft. long to 50 ft. long, and 50 ft. long and over.

(1) The annual license fee for passenger vessels is \$250.00 plus \$2.00 per ton for each vessel.

(2) The fee for an operator's license for passenger vessels is \$50.00 for the first year; this covers application and test costs. The renewal fee is \$25.00 annually.

(3) Additional inspection service when required ((will be) is at the rate of \$25.00 per hour, plus travel and per diem.

WSR 89-14-125
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed July 5, 1989, 3:42 p.m.]

Original Notice.

Title of Rule: Institutional—Medical assistance—Eligibility, amending chapter 388-95 WAC.

Purpose: To incorporate in the regulations the changes in the division of income and resources between the institutionalized and community spouse.

Statutory Authority for Adoption: Chapter 5352 [19], Laws of 1989 [1st ex. sess.].

Statute Being Implemented: Chapter 5352 [19], Laws of 1989 [1st ex. sess.].

Summary: The community spouse may retain up to \$60,000 and an income of \$1,000 plus excess shelter expenses.

Reasons Supporting Proposal: Same as above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bobbe Andersen, Division of Medical Assistance, Olympia, 234-0529 scan.

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

Rule is necessary because of federal law, Medicare Catastrophic Coverage Act of 1988.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: Same as above.

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

Hearing Location: OB-2, Auditorium, 12th and Franklin, Olympia, on August 8, 1989, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, WA 98504, by August 8, 1989.

Date of Intended Adoption: September 1, 1989.

July 5, 1989

Bill Griffith

for Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2411, filed 8/21/86)

WAC 388-95-335 ((OWNERSHIP)) AVAILABILITY OF INCOME ELIGIBILITY. (1) Community property law is used in determining ((ownership)) availability of income for purposes of Medicaid eligibility.

(2) All income received after marriage by either husband or wife or both is presumed to be community income.

(3) The total of the community income, received by the husband and the wife, is divided by two with one-half of the total assigned to each individual, as their income.

(4) An agreement between spouses transferring or assigning rights to future income from one spouse to the other is invalid in determining eligibility for medical assistance or the limited casualty program for the medically needy.

(5) Income produced by transferred or assigned resources is recognized as the separate income of the transferee.

AMENDATORY SECTION (Amending Order 2567, filed 12/11/87)

WAC 388-95-337 (~~OWNERSHIP~~) AVAILABILITY OF RESOURCES. (~~The department shall follow Washington state community property principles in determining the ownership of resources.~~)

(1) Resources are defined under WAC 388-92-005 for the SSI-related applicant or recipient and under WAC 388-22-030 for an AFDC-related applicant or recipient.

(2) The methodology and standards for determining and evaluating resources are under WAC 388-95-340, 388-95-380, and 388-95-390. Transfer of resources are evaluated under WAC 388-95-395.

(3) The department shall determine resources of the institutional spouse, as defined under WAC 388-95-395, available to the community spouse, as defined under WAC 388-95-395, at the time of:

(a) Application for Medicaid institutional care; or

(b) Institutionalization of a Medicaid recipient.

(4) For purposes of determining Medicaid eligibility, the department shall (presume all resources:

(a) Are community resources if jointly held in the names of both the husband and wife, or in the name of the applicant/recipient only.

(b) Are the separate property of the nonapplicant spouse if:

(i) Held in the separate name of the nonapplicant spouse, or

(ii) Transferred between spouses pursuant to WAC 388-92-043(4).

(2) The department shall divide by two, the total value of the community resources owned by the husband and wife and assign one-half of the total value to each spouse) consider available to the community spouse resources in the names of either the community spouse and/or the institutionalized spouse, except resources exceeding the greater of:

(a) Sixty thousand dollars;

(b) An amount established by a fair hearing under chapter 388-08 WAC if exceptional circumstances exist that the community spouse's resource allowance is inadequate to provide a minimum monthly maintenance needs allowance; or

(c) An amount ordered transferred to the community spouse by the court.

(5) The resources in subsection (4) of this section available to the community spouse shall be in the name of the community spouse or transferred to the community spouse or to another for sole benefit of the community spouse within ninety days after the initial eligibility determination is completed.

(6) The department shall consider resources greater than such resources in subsection (4) of this section available to the institutional spouse.

NEW SECTION

WAC 388-95-356 AVAILABILITY OF INCOME—POST-ELIGIBILITY. (1) Income is defined under WAC 388-92-005 for SSI-related applicant or recipient and under WAC 388-22-030 for an AFDC-related applicant or recipient.

(2) The methodology and standards for determining and evaluating income is defined under WAC 388-95-320 and 388-95-340.

(3) After September 30, 1989, the department shall consider the following income available to an institutionalized individual:

(a) Income the institutionalized spouse receives in the institutionalized spouse's name;

(b) One-half of the income the community and institutional spouses receive in both names; and

(c) Income in a trust as provided by the trust.

(4) The department shall consider income the community spouse receives in the community spouse's name as not available to the institutionalized spouse.

(5) An agreement between spouses transferring or assigning rights to future income from one spouse to the other is invalid in determining eligibility for medical assistance or the limited casualty program for the medically needy.

(6) The department recognizes income produced by transferred or assigned resources as the separate income of the transferee.

(7) If an institutionalized spouse shows convincing evidence of unavailability of income, subsection (3)(a) and (b) of this section shall not apply.

AMENDATORY SECTION (Amending Order 2721, filed 11/7/88)

WAC 388-95-360 ALLOCATION OF INCOME—INSTITUTIONALIZED RECIPIENT. (1) (~~All institutionalized clients shall retain a~~) In reducing payment to the institution, the department shall

deduct the following amounts, in the following order, from the institutionalized recipient's total income, including amounts excluded in determining eligibility:

(a) Specified personal needs allowance(;-);

(~~(2)~~) (b) (~~The~~) An amount an AFDC or FIP-related client in a medical facility (~~shall be eligible to~~) receives as a cash assistance payment sufficient to bring the client's income up to the personal needs allowance(;-);

(~~(3)~~) (c) The (~~department shall allow SSI-related clients to retain the~~) current personal needs allowance plus wages (~~received~~) the supplemental security income-related client receives for work approved by the department as part of a training or rehabilitative program designed to prepare the individual for a less restrictive placement when(~~:~~) the total wages received plus the personal needs allowance do not exceed the one-person medically needy income level(;-and);

(~~(b)~~) (i) No deductions are allowed for expenses of employment; and

(~~(c)~~) (ii) The excess wages shall apply to the cost of care, when the total wages received plus the initial personal needs allowance exceeds the one-person medically needy income level.

(~~(4)~~) (d) (~~In addition to the allocations in subsections (1) and (2) of this section, the department shall allow SSI-related clients residing in a medical facility throughout a calendar month the following allocations of income as applicable for:~~

(a) Maintenance needs of spouse not to exceed the one-person medically needy income level;)) An amount for the community spouse equal to the standard maintenance need of one thousand dollars less the separate income of the community spouse. The standard need maintenance amount shall be increased by:

(i) Shelter expenses exceeding two hundred forty-five dollars. The department shall calculate actual expenses for the community spouse's principal residence for rent, mortgage, taxes, and insurance, any maintenance charge for a condominium or cooperative, and a food stamp standard allowance for utilities provided the utilities are not included in another expense;

(ii) The total of the standard maintenance need amount and the shelter expenses shall not exceed one thousand five hundred dollars, unless:

(A) A court enters an order against the institutionalized client for the community spouse support in excess of this amount; or

(B) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(~~(b)~~) (e) A family member's maintenance needs of one-third of the amount eight hundred fifteen dollars exceeds the family (~~adjusted for number of family members~~) member's income for each dependent or minor child, dependent parent, or dependent sibling of the institutional or community spouse living (~~at home, but not to exceed the highest AFDC or FIP payment standard for a family of the same size~~) with the community spouse;

(~~(c)~~) (f) Amounts for incurred medical expenses not subject to third-party payment including, but not limited to:

(i) Health insurance premiums, co-insurance, or deductible charges; and

(ii) Necessary medical care recognized under state law, but not covered under Medicaid(;-);

(~~(d)~~) (g) Maintenance of the home of a single person:

(i) Up to one hundred eighty dollars per month; and

(ii) Limited to not more than a six-month period; and

(iii) A physician has certified the individual is likely to return to the home within that period; and

(iv) Social service staff shall document initial need for the income exemption and review the individual's circumstances after ninety days. Also see chapter 388-28 WAC.

(~~(5)~~) (2) The (~~department~~) recipient shall use the remaining income, after allocations specified in subsection(s) (1)(;-2), (3), or (4)) of this section, (~~to compute~~) toward payment of the (~~participation amount~~) recipient's cost of care at the department rate.

(~~(6)~~) (3)(a) Effective July 1, 1988, SSI-related clients shall continue to receive total payment under 1611 (b)(1) of the Social Security Act (SSA) for the first three full calendar months of institutionalization in a public or Medicaid-approved medical institution or facility if:

(i) The stay in the institution or facility is not expected to exceed three months; and

(ii) The SSI-related clients plan to return to their former living arrangements.

(b) The department shall not consider this SSI payment when computing the participation amount.

WSR 89-14-126
PROPOSED RULES
BOARD OF HEALTH
 [Filed July 5, 1989, 3:45 p.m.]

Original Notice.

Title of Rule: On-site sewage disposal, amending chapter 248-96 WAC.

Purpose: To clarify the standards for the replacement and repair of existing (failing) on-site sewage systems adjacent to marine waters.

Statutory Authority for Adoption: Chapter 349, Laws of 1989.

Statute Being Implemented: Chapter 349, Laws of 1989.

Summary: Delineates specific standards for the replacement and repair of existing on-site sewage systems adjacent to marine waters.

Reasons Supporting Proposal: Same as above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dave Lenning, Environmental Health Programs, Tumwater, 234-3764 scan.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: Same as above.

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

Hearing Location: St. Placid College Northeast, 320 College Street N.E., Olympia, WA, on August 9, 1989, at 10:00 a.m.

Submit Written Comments to: Board of Health, ET-23, 1112 South Quince Street, Olympia, WA 98504, by August 8, 1989.

Date of Intended Adoption: August 14, 1989.

July 5, 1989

Bill Griffith

for Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 259, filed 6/3/83)

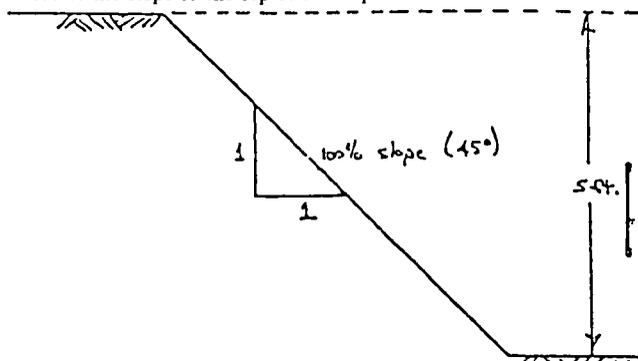
WAC 248-96-020 DEFINITIONS. (1) "Alternative system" ((=)) shall mean any on-site sewage system consisting of treatment and/or disposal components other than a septic tank and a subsurface soil absorption system (SSAS).

(2) "Approved" ((=the term "approved")) shall mean acceptable by the health officer or department as stated in writing.

(3) "Approved nonconforming system" shall mean an approved on-site sewage system not meeting the definition of a standard system.

(4) "Cover" ((=)) shall mean soil material that is used to cover a subsurface disposal area.

((+)) (5) "Cuts and/or banks" ((=)) shall mean any naturally occurring or man-formed slope which is greater than one hundred percent (forty-five degrees) and extends vertically at least five feet from the toe of the slope to the top of the slope as follows:



((+)) (6) "Department" ((=)) shall mean the Washington state department of ((social and)) health ((services)) or health officer if the approval authority for larger on-site sewage systems under WAC 248-96-075 has been delegated by agreement.

((+)) (7) "Expansion" shall mean any change within a structure or in the use or size of a structure that may cause the on-site sewage system to exceed its capacity. Examples include, but are not limited to:

(a) An increase in the structure's volume of generated wastewater;

(b) Higher strength of generated sewage; or

(c) Any other change adversely impacting the treatment or disposal of sewage in the existing on-site sewage system or in the replacement area.

(8) "Experimental system" ((=)) shall mean any alternative on-site system excluding a larger system ((which has not yet had)) with no guidelines established by the technical review committee as per WAC 248-96-046.

((+)) (9) "Failure" shall mean a system threatening the public health by failing to adequately treat the sewage and/or by creating a potential for the public coming in direct contact with sewage. Examples include, but are not limited to:

(a) Sewage contaminating surface or ground water;

(b) Sewage on the surface of the ground;

(c) Sewage leaking from a wastewater container;

(d) Sewage backing up into a structure or in the on-site sewage system caused by slow absorption of sewage in the SSAS; or

(e) Cesspools or seepage pits in areas of groundwater or surface water quality concerns.

(10) "Gross land area" ((=)) shall mean a lot area which is bounded by the centerline of adjoining road or street right-of-ways within the boundaries of the proposed development.

((+)) (11) "Ground water" ((=)) shall mean a subsurface water occupying the zone of saturation, permanently ((or)), seasonally, or as the result of the tides, (the top surface of which is commonly referred to as the water table) ((the indication of)) which may be demonstrated by one or all of the following methods:

(a) Water seeping into or standing in an open excavation from the soil surrounding the excavation.

(b) Spots or blotches of different color or shades of color interspersed with a dominant color in soil, commonly referred to as mottling. This is caused by intermittent periods of saturation and drying, and may be indicative of poor aeration and impeded drainage.

((+)) (12) "Health officer" ((=)) shall mean the health officer of the city, county, or city-county health department or district or a representative authorized by and under the direct supervision of the health officer.

((+)) (13) "Larger on-site sewage system" ((=)) shall mean any on-site sewage system with design flows, at any common point, between 3,500 and 14,500 gallons/day. On-site sewage systems receiving state or federal grants, or systems using mechanical treatment or lagoons with ultimate design flows above 3,500 gallons/day are excluded from this definition. Excluded systems are governed by chapter 173-240 WAC which is administered by the Washington state department of ecology.

((+)) (14) "Local board of health" ((=)) shall mean the city, town, county, city-county, or district board of health as defined in chapters 70.05, 70.08, and 70.46 RCW.

((+)) (15) "Marine shoreline" shall mean property adjacent to marine water.

(16) "On-site sewage system" ((=)) shall mean any system of piping, treatment devices, or other facilities that convey, store, treat, or dispose of sewage on the property where it originates or on adjacent or nearby property under the control of the user where the system is not connected to a public sewer system.

((13)) (17) "Ordinary high-water mark" ((=)) shall mean the mark on all lakes, streams, and tidal waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on the effective date of this chapter, or as it may naturally change thereafter: PROVIDED, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean higher high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high water.

((14)) (18) "Percolation test" ((=)) shall mean a soil test performed at the depth of the bottom of a proposed subsurface soil absorption system ((to estimate)) estimating the water absorption capability of the soil. The results are normally expressed as the rate in minutes at which one inch of water is absorbed.

((15)) (19) "Person" ((=)) shall mean any individual, corporation, company, association, society, firm, partnership, joint stock company, or any branch of state or local government.

((16)) (20) "Proprietary device or method" ((=)) shall mean any device or method classified as an alternative system or a component thereof that is held under a patent, trademark or copyright.

((17)) (21) "Public sewer system" ((=)) shall mean a sewerage system ((which is)) owned or operated by a city, town, municipal corporation, county, political subdivision of the state, or other approved ownership consisting of a collection system and necessary trunks, pumping facilities and a means of final treatment and disposal and approved or under permit from the department of ecology.

((18)) (22) "Restrictive layer" ((=)) shall mean a layer ((that impedes)) impeding the movement of water, air, and growth of plant roots. Examples of such layers or conditions are groundwater tables, hardpans, claypans, fragipans, compacted soil, bedrock and clayey soil.

((19)) (23) "Septic tank" ((=)) shall mean a watertight pretreatment receptacle ((which receives)) receiving the discharge of sewage from a building sewer or sewers, and ((is)) designed and constructed ((so as)) to permit separation of settleable and floating solids from the liquid, detention and digestion of the organic matter, prior to discharge of the liquid portion.

((20)) (24) "Sewage" ((=)) shall mean the water-carried human or domestic waste from residences, buildings, industrial establishments or other facilities, together with ((such)) ground water infiltration, that may be present.

((21)) (25) "Soil log" ((=)) shall mean an excavation in soil of sufficient size and depth ((made to allow)) allowing adequate determinations of the soil's characteristics together with the detailed description of the soil's texture, structure, color, bulk density or compaction, water absorption capabilities or permeability, and/or ((any)) other characteristics providing information ((as to)) on the soil's capacity to act as an acceptable treatment and disposal medium for sewage.

((22)) (26) "Standard system" shall mean an on-site sewage system meeting all the WAC 248-96-100 and 248-96-110 requirements, except WAC 248-96-100(2). Additionally, one of the following is required:

- (a) Three feet of vertical separation;
- (b) Two feet of vertical separation with pressure distribution; or
- (c) Use of an alternative system where site requirements of the technical review committee guidelines are met.

(27) "Subdivision" ((=)) shall mean a division of land, as defined in chapter 58.17 RCW, now or as hereafter amended, including both long and short subdivisions.

((23)) (28) "((SSAS))" Subsurface soil absorption system ((=)) (SSAS) shall mean a system consisting of trenches (three feet or less in width) or beds (more than three feet in width), together with the piping and gravel, designed and installed in natural undisturbed soil for the purpose of receiving effluent from a septic tank or other pretreatment device and transmitting it into the soil.

((24)) (29) "Surface water" ((=)) shall mean any body of water, whether fresh or marine, ((which either flows)) flowing or ((is)) contained in natural or artificial depressions for significant periods of the year. Such bodies include, but are not limited to, natural and artificial lakes, ponds, rivers, streams, swamps, marshes, and tidal waters.

((25)) (30) "Treatment standard 1" shall mean a thirty-day average of less than 10 mg/l of BOD5 and 10 mg/l of total suspended solids and a thirty-day geometric mean of less than 200 fecal coliform/100 ml.

(31) "Treatment standard 2" shall mean a thirty-day average of less than 10 mg/l of BOD5 and 10 mg/l of total suspended solids and a thirty-day geometric mean of less than 800 fecal coliform/100 ml.

(32) "Type 1 soil" ((=)) shall mean soil with a texture as noted in WAC 248-96-094 (Determination of site characteristics) or other soils where conditions are such that the treatment potential is ineffective in retaining and/or removing substances of public health significance to underground sources of drinking water.

((26)) (33) "Vertical separation" ((=)) shall mean the depth of unsaturated, original, undisturbed soil of types 2-6 that exists between the bottom of a SSAS and a restrictive layer or water table.

(34) "Wave barrier" shall mean a bulkhead of adequate height and construction preventing backwash of on-site sewage system components from wave action resulting from inclement weather and/or watercraft during extreme high tides.

AMENDATORY SECTION (Amending Order 259, filed 6/3/83)

WAC 248-96-040 APPLICABILITY. These regulations shall apply to all on-site sewage systems except the following:

(1) New construction for which a permit was issued prior to July 1, 1984, or adoption of local regulations and is still valid. The regulations in effect at the time the permit was issued shall apply, except where portions of the new regulations are less stringent((:));

(2) An extension, alteration, or replacement necessitated by the failure of an existing on-site sewage system and is not on a marine shoreline. These regulations shall be applied to the maximum extent permitted by the site. A permit shall be required as per WAC 248-96-080 (Permit)((:));

(3) Permit applications for systems located in subdivisions having received preliminary approval or having been filed for record between July 1, 1979, and June 30, 1984 (chapter 58.17 RCW). The regulations in effect at the time preliminary or final approval was given shall apply, unless the local board of health finds a change in conditions creates a serious threat to the public health((:)); and

(4) Facilities constructed or operated in accordance with a permit or approval issued by the Washington state department of ecology. Where these regulations may be in conflict with chapters 90.48 or 70.95B RCW, said RCW shall govern.

AMENDATORY SECTION (Amending Order 259, filed 6/3/83)

WAC 248-96-046 ALTERNATIVE SYSTEMS. (1) The health officer may issue permits for alternative systems only after the requirements of subsections (2) and (3) of this section ((have been)) are completed.

(2) The department shall establish and maintain a technical review committee. The committee shall be composed of a maximum of seven members and consist of qualified representatives. Representatives may be selected from local health departments; consumer organizations; engineering firms; the department of ecology; a public sewer utility; land sales, subdivision and building industries; and other interested organizations. The functions of the committee are to review and evaluate alternative systems and establish guidelines for use. Such guidelines may include national standards including, but not limited to, guidelines of the national sanitation foundation.

(3) Once guidelines for an alternative system have been established by the technical review committee, that system can be permitted for use. However, before a proprietary device or method can be permitted, certification in a manner prescribed by the department must be provided to the department that all criteria in the appropriate guidelines have been satisfied.

(4) The health officer shall require monitoring of the performance of any alternative system installed for which guidelines have been developed. The frequency and duration of monitoring shall be in accordance with guidelines developed by the technical review committee. Costs for monitoring and/or reporting may be included as an addition to the permit fee. Procedures for monitoring and reporting shall be developed by the technical review committee. Copies of any records of such performance evaluation shall be submitted to the department.

(5) The technical review committee shall determine which alternative systems or combinations of alternative systems meet treatment standard 1 and/or treatment standard 2. The department shall maintain a list of alternative systems meeting each standard.

AMENDATORY SECTION (Amending Order 259, filed 6/3/83)

WAC 248-96-060 CONNECTION TO PUBLIC SEWER SYSTEM. (1) Connection of any existing dwelling unit or other premises with a failing on-site sewage system shall be made to a public sewer system where there is an adequate public sewer within two hundred feet of the dwelling or other facility to be served as measured along the usual or most feasible route of access, and ~~((such))~~ connection is permitted by the sewer utility. This requirement may be waived if the health officer determines ~~((that adequate site conditions exist which allow the installation of a replacement on-site sewage))~~ a standard system may be installed.

(2) Any existing dwelling or other premises served by an approved nonconforming system shall be connected to the public sewer system when:

(a) An adequate public sewer becomes available within a distance of two hundred feet of the dwelling or other facility. The distance shall be measured along the usual or most feasible route of access; and

(b) The sewer connection is permitted by the sewer utility.

(3) The requirement in subsection (2) of this section may be waived when:

(a) The owner shows consistent compliance with the treatment, maintenance, monitoring, and reporting requirements specified under WAC 248-96-120 and 248-96-125; and

(b) The health officer determines continued use of the system will not imperil public health.

(4) Local regulations may provide requirements for connections of new construction to public sewer systems.

AMENDATORY SECTION (Amending Order 259, filed 6/3/83)

WAC 248-96-110 DESIGN. (1) The detailed design and construction of all on-site sewage systems shall conform to the "Design Manual: On-site Wastewater Treatment and Disposal Systems," United States Environmental Protection Agency, EPA-625/1-80-012, October, 1980, except where modified by, or in conflict with these regulations.

(2) The design for an on-site sewage system shall be performed by or under the supervision of a professional engineer, registered sanitarian or certified designer. A resident owner, at the discretion of the health officer, may design ~~((his or her))~~ the resident owner's own system, if a minimum vertical separation of three feet can be maintained.

(3) The system shall be designed to receive all sanitary sewage and domestic waste from the building served unless otherwise approved by the health officer. For individual residences, flows of one hundred twenty gallons/bedroom/day shall be used for design purposes. For other establishments, the typical values noted in the design manual referred to in WAC 248-96-110(1) shall be used. Any deviations shall be supported by appropriate water usage information and/or the use of low water use fixtures. Drainage from footing or roof drains or any other type of drain shall neither enter the sewage system nor be directed over the area where the on-site sewage system is located.

(4) All septic tanks shall be designed in accordance with subsection (1) of this section, with the following exceptions:

(a) All tanks must have a minimum of two compartments with the first compartment consisting of one-half to two-thirds of the required total volume.

(b) Intercompartmental apparatus shall be sanitary tees, slots or baffles assuring that effluent only from the clarified zone passes into the next compartment.

(c) Septic tanks ~~((to serve))~~ serving single family residences shall have a minimum liquid capacity based on the number of bedrooms in the residence, as follows:

Number of Bedrooms in House	Required Minimum Liquid Volume
2 or less	750
3	900
4	1000

For each additional bedroom add 250 gallons.

A septic tank designed to service a facility other than one single family residence shall have a minimum liquid capacity equal to one and one-half times the projected daily sewage volume, with a minimum of 1000 gallons.

(d) Concrete tanks shall be approved by the health officer. Tanks made of materials other than concrete shall be approved by the health officer and the department.

(e) All septic tanks and pump chambers to be located in high water table areas shall be adequately treated to preclude ground water intrusion.

(5) Effluent shall be disposed of by means of a SSAS except when approval for other disposal systems is granted by the health officer and/or the department.

(a) The size of the SSAS shall be determined from the results of the site review and soil logs per the design manual.

(b) The health officer shall not permit installation and use of cesspools and seepage pits for the disposal of sewage ~~((is not permitted))~~.

(c) The bottom of a SSAS shall not be deeper than three feet below the finished grade, except under special conditions approved by the health officer. The depth of such a system shall not exceed ten feet from finished grade.

(d) Subsurface absorption beds (see definition of SSAS) may be considered for use only when authorized by the health officer and/or the department and when the soils are type 1, 2, or 3.

(e) Piping materials shall be approved by the health officer and the department.

(6) Cover can be used over a SSAS provided ~~((that))~~ no portion of the SSAS sidewall ~~((above))~~ below the invert of the distribution pipe is installed in this material.

(7) When sewage holding tank systems are ~~((to be))~~ used, a management program assuring ongoing operation and maintenance, which shall be approved by the health officer, shall be in effect. Sewage holding tanks shall not be permitted for either new construction or expansion of residential dwellings, whether seasonal or year-round. The health officer may approve sewage holding tanks ~~((shall only be used))~~ for the following situations:

(a) Permanent use. Controlled, part-time, ~~((nonresidential))~~ commercial usage situations, including, but not limited to, recreational vehicle parks, trailer dump stations, and certain limited hour businesses~~((:));~~

(b) ~~((On an))~~ Interim use ~~((basis))~~. To handle emergency situations ~~((or to correct existing problem systems)); and~~

(c) Repairs. As permitted under WAC 248-96-120 (1)(d)(i).

NEW SECTION

WAC 248-96-120 REPAIR OF FAILURES ALONG MARINE SHORELINES. (1) When an on-site sewage system failure occurs, the health officer shall require one of the following:

(a) Repair of the on-site sewage system using the requirements of this section. The repair system may be located either on the:

- (i) Property served; or
- (ii) Nearby or adjacent property if easements are obtained.

(b) Connection to publicly owned larger on-site sewage system;

(c) Connection to public sewer; or

(d) If subsections (1)(a), (b), or (c) of this section are not feasible, the health officer shall require one of the following:

(i) Use of a holding tank;

(ii) A National Pollutant Discharge Elimination System or state discharge permit obtained from the Washington state department of ecology shall be considered only if an on-site sewage system is not feasible and the only realistic method of final disposal is to discharge to the surface of the land or into surface water; or

(iii) Abandonment of the property.

(2) When the soil absorption component fails, the requirements under WAC 248-96-095 (2) and (3) shall be met before a repair permit is issued.

(3) A detailed design shall be submitted for each repair system. The repair shall be sized to accommodate all the sewage.

(4) When repair of an on-site sewage system is required to correct a failure, the health officer may permit:

(a) A standard system; or

(b) An approved nonconforming system. An approved nonconforming system may only be permitted when a:

(i) Standard system cannot be installed; and

(ii) Connection to either a public sewer or an approved larger on-site sewage system is not feasible.

(5) Approved nonconforming systems shall comply with the requirements in Table IV:

TABLE IV REQUIREMENTS FOR APPROVED NONCONFORMING SYSTEMS

Vertical Separation in Feet	HORIZONTAL SEPARATIONS IN FEET		
	< 25	> 25-50	> 50

<1	Treatment Standard 1	Treatment Standard 1	Treatment Standard 2 ¹
1-2	Treatment Standard 1	Treatment Standard 2	Pressure Distribution
>2	Treatment Standard 2 ¹	Pressure Distribution	—

NOTES

¹ Not including mound systems.

- (6) When an approved nonconforming system is permitted:
- (a) Priority shall be given to protection of drinking water sources. The site of the repair shall be selected to maximize the:
 - (i) Vertical separation;
 - (ii) Distance from a well or suction line; and
 - (iii) Distance to surface water.
 - (b) The permit shall identify the system as an approved nonconforming system. The permit shall state the manner and the extent the system is nonconforming. A copy of the permit and any accompanying easements or restrictive covenants shall be recorded with the county auditor. The requirement does not apply to a repaired system when a waiver from new construction standards is obtained per WAC 248-96-160; and
 - (c) Operation, maintenance, monitoring, and reporting to the health officer shall comply with the protocol in the technical review committee guidelines. The minimum frequency shall be:
 - (i) Quarterly when treatment standard 1 is required; and
 - (ii) Annually when treatment standard 2 is required.
 - (7) The health officer shall require wave barrier protection as deemed necessary.
 - (8) Actions taken under this section shall comply with other local and state requirements.

NEW SECTION

WAC 248-96-125 EXPANSION OF STRUCTURES ALONG MARINE SHORELINES. The health officer shall require the following for an expansion along a marine shoreline:

- (1) A standard system shall be installed;
- (2) A system replacement area shall be maintained as required by WAC 248-96-100(4); and
- (3) The soil absorption component shall be a minimum of fifty feet from the ordinary high-water mark.

**WSR 89-14-127
PROPOSED RULES
DEPARTMENT OF WILDLIFE**
[Filed July 5, 1989, 4:14 p.m.]

Original Notice.

Title of Rule: Adopting chapter 232-02 WAC Organization, WAC 232-02-100 Authority and purpose and 232-02-120 Description of central and field organization of the Department of Wildlife; and repealing WAC 232-12-800 Purpose, 232-12-804 Description of central and field organization of the Department of Game and 232-12-807 Operations and procedures.

Purpose: Update and recodify statement of purpose and organization required by chapters 42.17 and 34.05 RCW.

Statutory Authority for Adoption: RCW 42.17.250.

Statute Being Implemented: RCW 42.17.250.

Summary: Provides statement of central and field organization for operation and procedures of Department of Wildlife.

Reasons Supporting Proposal: To comply with the requirements of chapters 42.17 and 34.05 RCW.

Name of Agency Personnel Responsible for Drafting and Implementation: Lee S. Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; and Enforcement: Dan Wyckoff, A.D. Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Department of Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Will update and recodify statement of purpose and organization required by chapters 42.17 and 34.05 RCW.

Proposal Changes the Following Existing Rules: It provides statement of central and field organization for operation and procedures of Department of Wildlife.

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

Hearing Location: Towne Plaza Motor Inn, North Seventh Street, Yakima, WA 98901, on August 12, 1989, at 8:00 a.m.

Submit Written Comments to: Administrative Regulations Officer, Washington Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, by August 9, 1989.

Date of Intended Adoption: August 12, 1989.

July 3, 1989

Lee S. Smith

Administrative Regulations Officer

CHAPTER 232-02 WAC
ORGANIZATION

NEW SECTION

WAC 232-02-100 AUTHORITY AND PURPOSE. These rules are adopted under the authority of chapter 34.05 RCW and for the purpose of complying with the requirements of chapter 42.17 RCW and chapter 34.05 RCW.

NEW SECTION

WAC 232-02-120 DESCRIPTION OF CENTRAL AND FIELD ORGANIZATION OF THE DEPARTMENT OF WILDLIFE. The headquarters of the department of wildlife, the director and the administrative staff is located at 600 Capitol Way N, Olympia, Washington, 98501-1091. In addition, the department has six regional offices, each responsible for department activities within its respective area. Their locations are:

Region 1
N 8702 Division Street
Spokane, WA 99218-1199

Region 2
P.O. Box 850
1540 Alder Street NW
Ephrata, WA 98823-9699

Region 3
2802 Fruitvale Blvd
Yakima, WA 98902-1190

Wenatchee Office
3860 Chelan Highway N
Wenatchee, WA 98801-9607

Region 4
16018 Mill Creek Blvd
Mill Creek, WA 98012-1296

Region 5
5405 NE Hazel Dell Ave
Vancouver, WA 98663-1299

Region 6
905 E Heron
Aberdeen, WA 98520-2999

WAC 232-12-804 DESCRIPTION OF CENTRAL AND
FIELD ORGANIZATION OF THE DEPARTMENT OF GAME
WAC 232-12-807 OPERATIONS AND PROCEDURES

NEW SECTION

WAC 232-02-140 OPERATIONS AND PROCEDURES. The department of Wildlife is a state agency whose statutory responsibility is to preserve, protect, and perpetuate Washington's diverse wildlife and to maximize the recreational and aesthetic benefits of wildlife for all citizens.

The Washington wildlife commission consists of six members appointed by the governor. They serve a term of six years each. Terms are arranged so that appointments of two members expire every two years. By law, three commissioners are appointed from eastern Washington and three from western Washington. The wildlife commission has authority to establish regulations and set basic policies. This includes establishment of hunting and fishing seasons and approval of land acquisitions or exchanges. The wildlife commission holds four statutory meetings each year in January, April, July, and October, and other special meetings as necessary to conduct its business.

The director is appointed by the governor and is responsible for supervision and administration of the operation of the department of wildlife. The director has the authority and duty to regulate department activities. The director may delegate to department employees such responsibilities as the director may deem necessary to carry out the duties and responsibilities of the department.

The deputy director and six assistant directors aid in the operation and administration of the department. The executive management team consists of the six assistant directors who plan and coordinate agency programs. The director's staff consists of the office of information and education, the office of personnel, the regulations officer, the office of intergovernmental liaison, and the office of Columbia River programs.

The assistant director for fisheries management administers the fisheries management division, which is responsible for research, planning, program development and coordination of management for all fish classified as game fish.

The assistant director for wildlife management administers the wildlife management division, which is responsible for research, planning, program development, and coordination of management for all wildlife in the state other than fish. Major activities of this division relate to big game species, a variety of small game including birds, nongame wildlife, and management of wildlife areas.

The assistant director for habitat management administers the habitat management division, which is responsible for administration of environmental laws and public education programs for protection, restoration, and enhancement of wildlife and fish habitat. Major activities of this program relate to cooperative contractual agreements with other agencies, land managers, and private landholders; environmental regulation through permits; and impact assessment of development projects.

The assistant director for enforcement administers the wildlife enforcement division, which is responsible for planning, program development, and coordination of wildlife law, enforcement, special investigations and wildlife control activities.

The assistant director for support services has responsibility for budget development, accounting, federal aid coordination, payroll, printing, mailing, purchasing, vendor payments, warehouse services, safety, maintenance of archives, department's license management, and data processing. Support services also includes engineering and lands, which is responsible for engineering and design, construction, maintenance, surveying, land acquisition, and property management services.

The assistant director for field operations coordinates implementation of department programs and priorities among six geographical and administrative regions of which there are three in eastern Washington and three in western Washington. Regions are administered by regional managers responsible for coordinating the implementation of all department programs within the region. Regional managers report to the assistant director for field operations.

REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

WAC 232-12-800 PURPOSE

WSR 89-14-128

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF ECOLOGY

[Filed July 5, 1989, 4:43 p.m.]

Notice is hereby given that the Department of Ecology will not take further action under WSR 89-09-076 to amend WAC 173-19-2505, Bothell, city of.

This notice is given pursuant to WAC 1-12-033. The Department of Ecology may, at a later date, file a new notice of intent to amend the program.

Carol Jolly
Assistant Director
Water and Shorelands

WSR 89-14-129

PROPOSED RULES DEPARTMENT OF ECOLOGY

[Filed July 5, 1989, 4:45 p.m.]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning Bellingham, city of, amending WAC 173-19-4501.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 8, 1989.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

This notice is connected to and continues the matter in Notice No. WSR 89-08-113 filed with the code reviser's office on April 5, 1989.

Dated: July 5, 1989
By: Carol Jolly
Assistant Director
Water and Shorelands

AMENDATORY SECTION (Amending Order DE 84-11, filed 3/29/84)

WAC 173-19-4501 BELLINGHAM, CITY OF. City of Bellingham master program approved September 30, 1974. Revision approved March 29, 1984. Revision approved August 8, 1989.

WSR 89-14-130

ADOPTED RULES DEPARTMENT OF ECOLOGY

[Order 89-18—Filed July 5, 1989, 4:49 p.m.]

I, Carol Jolly, assistant director of Water and Shorelands, do promulgate and adopt at Lacey, Washington, the annexed rules relating to Snohomish County, amending WAC 173-19-390.

This action is taken pursuant to Notice No. WSR 89-08-114 filed with the code reviser on April 5, 1989. These rules shall take effect thirty days after they are

filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 90.58.120 and 90.58.200 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED July 5, 1989.

By Carol Jolly
Assistant Director
Water and Shorelands

AMENDATORY SECTION (Amending Order DE 88-55, filed 3/7/89 [3/8/89])

WAC 173-19-390 SNOHOMISH COUNTY. Snohomish County master program approved December 27, 1974. Revision approved June 16, 1978. Revision approved June 23, 1982. Revision approved August 25, 1983. Revision approved January 4, 1984. Revision approved February 11, 1987. Revision approved March 7, 1989. Revision approved July 5, 1989.

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.

WSR 89-14-131

ADOPTED RULES

DEPARTMENT OF ECOLOGY

[Order 89-23—Filed July 5, 1989, 4:52 p.m.]

I, Carol Jolly, assistant director of Water and Shorelands, do promulgate and adopt at Lacey, Washington, the annexed rules relating to Monroe, city of, amending WAC 173-19-3910.

This action is taken pursuant to Notice No. WSR 89-08-115 filed with the code reviser on April 5, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 90.58.120 and 90.58.200 and is intended to administratively implement that statute.

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.

APPROVED AND ADOPTED July 5, 1989.

By Carol Jolly
Assistant Director
Water and Shorelands

AMENDATORY SECTION (Amending Order DE 81-56, filed 2/22/82)

WAC 173-19-3810 MONROE, CITY OF. City of Monroe master program approved December 27, 1974. Revision approved February 18, 1982. Revision approved July 5, 1989.

Reviser's note: The above section, filed by the agency as an amendment of WAC 173-19-3810, appears to be an amendment of WAC 173-19-3910, there being no WAC 173-19-3810 in existence. Pursuant to RCW 34.08.040, the section is published in the same form as filed by the agency.

Table of WAC Sections Affected

KEY TO TABLE

Symbols:

- AMD = Amendment of existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- RE-AD = Readoption of existing section
- REP = Repeal of existing section
- REAFF = Order assuming and reaffirming rules
- REMOV = Removal of rule pursuant to RCW 34.04.050(5)
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule
- STMT = Statement regarding previously adopted rule

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
1-12-005	REP-P	89-09-068	1-12-190	REP-P	89-09-068	1-13-120	REP-P	89-09-068
1-12-005	REP	89-12-028	1-12-190	REP	89-12-028	1-13-120	REP	89-12-028
1-12-010	REP-P	89-09-068	1-12-191	REP-P	89-09-068	1-13-125	REP-P	89-09-068
1-12-010	REP	89-12-028	1-12-191	REP	89-12-028	1-13-125	REP	89-12-028
1-12-020	REP-P	89-09-068	1-12-200	REP-P	89-09-068	1-13-130	REP-P	89-09-068
1-12-020	REP	89-12-028	1-12-200	REP	89-12-028	1-13-130	REP	89-12-028
1-12-030	REP-P	89-09-068	1-12-210	REP-P	89-09-068	1-13-140	REP-P	89-09-068
1-12-030	REP	89-12-028	1-12-210	REP	89-12-028	1-13-140	REP	89-12-028
1-12-032	REP-P	89-09-068	1-12-220	REP-P	89-09-068	1-13-150	REP-P	89-09-068
1-12-032	REP	89-12-028	1-12-220	REP	89-12-028	1-13-150	REP	89-12-028
1-12-033	REP-P	89-09-068	1-12-910	REP-P	89-09-068	1-13-155	REP-P	89-09-068
1-12-033	REP	89-12-028	1-12-910	REP	89-12-028	1-13-155	REP	89-12-028
1-12-034	REP-P	89-09-068	1-12-930	REP-P	89-09-068	1-13-160	REP-P	89-09-068
1-12-034	REP	89-12-028	1-12-930	REP	89-12-028	1-13-160	REP	89-12-028
1-12-035	REP-P	89-09-068	1-12-940	REP-P	89-09-068	1-13-170	REP-P	89-09-068
1-12-035	REP	89-12-028	1-12-940	REP	89-12-028	1-13-170	REP	89-12-028
1-12-040	REP-P	89-09-068	1-12-950	REP-P	89-09-068	1-13-180	REP-P	89-09-068
1-12-040	REP	89-12-028	1-12-950	REP	89-12-028	1-13-180	REP	89-12-028
1-12-045	REP-P	89-09-068	1-13-005	REP-P	89-09-068	1-13-190	REP-P	89-09-068
1-12-045	REP	89-12-028	1-13-005	REP	89-12-028	1-13-190	REP	89-12-028
1-12-050	REP-P	89-09-068	1-13-010	REP-P	89-09-068	1-13-200	REP-P	89-09-068
1-12-050	REP	89-12-028	1-13-010	REP	89-12-028	1-13-200	REP	89-12-028
1-12-060	REP-P	89-09-068	1-13-020	REP-P	89-09-068	1-13-210	REP-P	89-09-068
1-12-060	REP	89-12-028	1-13-020	REP	89-12-028	1-13-210	REP	89-12-028
1-12-070	REP-P	89-09-068	1-13-030	REP-P	89-09-068	1-13-230	REP-P	89-09-068
1-12-070	REP	89-12-028	1-13-030	REP	89-12-028	1-13-230	REP	89-12-028
1-12-080	REP-P	89-09-068	1-13-032	REP-P	89-09-068	1-13-240	REP-P	89-09-068
1-12-080	REP	89-12-028	1-13-032	REP	89-12-028	1-13-240	REP	89-12-028
1-12-090	REP-P	89-09-068	1-13-033	REP-P	89-09-068	1-13-910	REP-P	89-09-068
1-12-090	REP	89-12-028	1-13-033	REP	89-12-028	1-13-910	REP	89-12-028
1-12-100	REP-P	89-09-068	1-13-034	REP-P	89-09-068	1-13-930	REP-P	89-09-068
1-12-100	REP	89-12-028	1-13-034	REP	89-12-028	1-13-930	REP	89-12-028
1-12-110	REP-P	89-09-068	1-13-035	REP-P	89-09-068	1-13-940	REP-P	89-09-068
1-12-110	REP	89-12-028	1-13-035	REP	89-12-028	1-13-940	REP	89-12-028
1-12-120	REP-P	89-09-068	1-13-040	REP-P	89-09-068	1-13-950	REP-P	89-09-068
1-12-120	REP	89-12-028	1-13-040	REP	89-12-028	1-13-950	REP	89-12-028
1-12-125	REP-P	89-09-068	1-13-045	REP-P	89-09-068	1-21-005	NEW-P	89-09-068
1-12-125	REP	89-12-028	1-13-045	REP	89-12-028	1-21-005	NEW	89-12-028
1-12-130	REP-P	89-09-068	1-13-050	REP-P	89-09-068	1-21-010	NEW-P	89-09-068
1-12-130	REP	89-12-028	1-13-050	REP	89-12-028	1-21-010	NEW	89-12-028
1-12-140	REP-P	89-09-068	1-13-060	REP-P	89-09-068	1-21-020	NEW-P	89-09-068
1-12-140	REP	89-12-028	1-13-060	REP	89-12-028	1-21-020	NEW	89-12-028
1-12-150	REP-P	89-09-068	1-13-070	REP-P	89-09-068	1-21-030	NEW-P	89-09-068
1-12-150	REP	89-12-028	1-13-070	REP	89-12-028	1-21-030	NEW	89-12-028
1-12-155	REP-P	89-09-068	1-13-080	REP-P	89-09-068	1-21-040	NEW-P	89-09-068
1-12-155	REP	89-12-028	1-13-080	REP	89-12-028	1-21-040	NEW	89-12-028
1-12-160	REP-P	89-09-068	1-13-090	REP-P	89-09-068	1-21-050	NEW-P	89-09-068
1-12-160	REP	89-12-028	1-13-090	REP	89-12-028	1-21-050	NEW	89-12-028
1-12-170	REP-P	89-09-068	1-13-100	REP-P	89-09-068	1-21-060	NEW-P	89-09-068
1-12-170	REP	89-12-028	1-13-100	REP	89-12-028	1-21-060	NEW	89-12-028
1-12-180	REP-P	89-09-068	1-13-110	REP-P	89-09-068	1-21-070	NEW-P	89-09-068
1-12-180	REP	89-12-028	1-13-110	REP	89-12-028	1-21-070	NEW	89-12-028

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1-21-090	NEW-P	89-09-068	10-08-250	NEW	89-13-036	16-228-660	NEW-E	89-12-046
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1-21-100	NEW	89-12-028	10-08-252	NEW-P	89-10-035	16-230	NEW-C	89-07-051
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1-21-110	NEW	89-12-028	10-08-260	NEW-P	89-10-035	16-230-800	NEW-P	89-11-093
1-21-120	NEW-P	89-09-068	10-08-260	NEW	89-13-036	16-230-805	NEW-P	89-03-065
1-21-120	NEW	89-12-028	10-08-261	NEW-P	89-10-035	16-230-805	NEW-P	89-11-093
1-21-130	NEW-P	89-09-068	10-08-261	NEW	89-13-036	16-230-810	NEW-P	89-03-065
1-21-130	NEW	89-12-028	16-22-040	AMD-P	89-10-065	16-230-810	NEW-P	89-11-093
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1-21-150	NEW	89-12-028	16-30-020	AMD-P	89-02-056	16-230-820	NEW-P	89-11-093
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1-21-160	NEW	89-12-028	16-30-025	NEW-P	89-02-056	16-230-825	NEW-P	89-11-093
1-21-170	NEW-P	89-09-068	16-30-025	NEW	89-06-014	16-230-830	NEW-P	89-03-065
1-21-170	NEW	89-12-028	16-30-030	AMD-P	89-02-056	16-230-830	NEW-P	89-11-093
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4-25-040	AMD-P	89-10-012	16-30-050	AMD-P	89-02-056	16-230-840	NEW-P	89-11-093
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10-08-010	REP	89-13-036	16-212-087	NEW-P	89-08-019	16-232-435	NEW-E	89-05-004
10-08-020	REP-P	89-10-035	16-212-087	NEW	89-11-092	16-232-435	REP-E	89-08-006
10-08-020	REP	89-13-036	16-212-110	AMD-P	89-08-019	16-232-440	NEW-E	89-08-006
10-08-030	REP-P	89-10-035	16-212-110	AMD	89-11-092	16-232-440	NEW-E	89-14-016
10-08-030	REP	89-13-036	16-212-230	AMD-P	89-08-019	16-232-445	NEW-E	89-05-004
10-08-035	NEW-P	89-10-035	16-212-230	AMD	89-11-092	16-232-445	REP-E	89-08-006
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10-08-040	AMD-P	89-10-035	16-224-010	AMD	89-11-092	16-232-450	NEW-E	89-14-016
10-08-040	AMD	89-13-036	16-225-001	REP-P	89-08-019	16-232-455	NEW-E	89-05-004
10-08-045	NEW-P	89-10-035	16-225-001	REP	89-11-092	16-232-455	REP-E	89-08-006
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10-08-050	AMD-P	89-10-035	16-225-010	REP	89-11-092	16-232-460	NEW-E	89-14-016
10-08-050	AMD	89-13-036	16-225-020	REP-P	89-08-019	16-232-465	NEW-E	89-05-004
10-08-060	REP-P	89-10-035	16-225-020	REP	89-11-092	16-232-465	REP-E	89-08-006
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10-08-090	AMD-P	89-10-035	16-225-030	REP	89-11-092	16-232-470	NEW-E	89-14-016
10-08-090	AMD	89-13-036	16-225-040	REP-P	89-08-019	16-232-480	NEW-E	89-08-006
10-08-110	AMD-P	89-10-035	16-225-040	REP	89-11-092	16-232-480	NEW-E	89-14-016
10-08-110	AMD	89-13-036	16-225-050	REP-P	89-08-019	16-232-490	NEW-E	89-08-006
10-08-120	AMD-P	89-10-035	16-225-050	REP	89-11-092	16-232-490	NEW-E	89-14-016
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10-08-130	AMD	89-13-036	16-228-164	NEW	89-07-006	16-300-010	AMD	89-11-078
10-08-140	AMD-P	89-10-035	16-228-165	REP	89-07-006	16-300-020	AMD-E	89-12-001
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10-08-160	AMD-P	89-10-035	16-228-420	NEW-E	89-09-012	16-316-160	AMD	89-11-078
10-08-160	AMD	89-13-036	16-228-430	NEW-E	89-09-012	16-316-165	AMD-E	89-12-001
10-08-170	AMD-P	89-10-035	16-228-440	NEW-E	89-09-012	16-316-185	AMD-P	89-07-074
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16-403-280	AMD-P 89-09-011	82-54-010	NEW-E 89-12-022	132D-10-006	REP 89-11-022
16-403-280	AMD 89-14-031	82-54-020	NEW-E 89-12-022	132D-10-009	REP-P 89-07-069
16-528-020	AMD-P 89-04-049	98-08-150	AMD-P 89-05-054	132D-10-009	REP 89-11-022
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16-690-015	AMD-P 89-05-041	98-12-010	REP-P 89-05-054	132D-10-015	REP 89-11-022
16-690-015	AMD 89-08-039	98-12-010	REP 89-08-043	132D-10-018	REP-P 89-07-069
16-750-950	NEW-P 89-11-071	98-12-050	NEW-P 89-05-054	132D-10-018	REP 89-11-022
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44-10-040	AMD-P 89-12-030	98-14-090	AMD 89-08-043	132D-10-021	REP 89-11-022
44-10-040	AMD-E 89-12-031	98-14-100	NEW-P 89-05-054	132D-10-024	REP-P 89-07-069
44-10-050	AMD-P 89-12-030	98-14-100	NEW 89-08-043	132D-10-024	REP 89-11-022
44-10-050	AMD-E 89-12-031	98-14-100	AMD-P 89-05-054	132D-10-027	REP-P 89-07-069
44-10-055	REP-P 89-12-030	98-16-020	AMD 89-08-043	132D-10-027	REP 89-11-022
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44-10-100	AMD-P 89-12-030	98-20-020	AMD 89-08-043	132D-10-033	REP 89-11-022
44-10-100	AMD-E 89-12-031	98-40-020	AMD-P 89-05-054	132D-10-036	REP-P 89-07-069
44-10-110	AMD-P 89-12-030	98-40-020	AMD 89-08-043	132D-10-036	REP 89-11-022
44-10-110	AMD-E 89-12-031	98-40-030	AMD-P 89-05-054	132D-10-037	REP-P 89-07-069
44-10-120	AMD 89-06-026	98-40-030	AMD 89-08-043	132D-10-037	REP 89-11-022
44-10-130	AMD-P 89-12-030	98-40-040	AMD-P 89-05-054	132D-10-039	REP-P 89-07-069
44-10-130	AMD-E 89-12-031	98-40-040	AMD 89-08-043	132D-10-039	REP 89-11-022
44-10-140	AMD-P 89-12-030	98-40-050	AMD-P 89-05-054	132D-10-042	REP-P 89-07-069
44-10-140	AMD-E 89-12-031	98-40-050	AMD 89-08-043	132D-10-042	REP 89-11-022
44-10-150	AMD-P 89-12-030	98-40-070	AMD-P 89-05-054	132D-10-045	REP-P 89-07-069
44-10-150	AMD-E 89-12-031	98-40-070	AMD 89-08-043	132D-10-045	REP 89-11-022
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44-10-160	AMD-E 89-12-031	98-40-080	AMD 89-08-043	132D-10-048	REP 89-11-022
44-10-170	AMD-P 89-12-030	98-70-010	AMD-P 89-03-032	132D-10-051	REP-P 89-07-069

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132D-18-140	REP-P	89-07-062	132D-20-190	REP-W	89-05-046	132D-276-060	NEW-P	89-07-062
132D-18-140	REP	89-11-024	132D-20-190	REP-P	89-07-070	132D-276-060	NEW	89-11-024
132D-18-150	REP-P	89-07-062	132D-20-190	REP	89-11-025	132D-276-070	NEW-P	89-07-062
132D-18-150	REP	89-11-024	132D-20-200	REP-P	89-05-012	132D-276-070	NEW	89-11-024
132D-20-010	REP-P	89-05-012	132D-20-200	REP-W	89-05-046	132D-276-080	NEW-P	89-07-062
132D-20-010	REP-W	89-05-046	132D-20-200	REP-P	89-07-070	132D-276-080	NEW	89-11-024
132D-20-010	REP-P	89-07-070	132D-20-200	REP	89-11-025	132D-276-090	NEW-P	89-07-062
132D-20-010	REP	89-11-025	132D-20-210	REP-P	89-05-012	132D-276-090	NEW	89-11-024
132D-20-020	REP-P	89-05-012	132D-20-210	REP-W	89-05-046	132D-276-100	NEW-P	89-07-062
132D-20-020	REP-W	89-05-046	132D-20-210	REP-P	89-07-070	132D-276-100	NEW	89-11-024
132D-20-020	REP-P	89-07-070	132D-20-210	REP	89-11-025	132D-276-110	NEW-P	89-07-062
132D-20-020	REP	89-11-025	132D-20-220	REP-P	89-05-012	132D-276-110	NEW	89-11-024
132D-20-030	REP-P	89-05-012	132D-20-220	REP-W	89-05-046	132D-276-120	NEW-P	89-07-062
132D-20-030	REP-W	89-05-046	132D-20-220	REP-P	89-07-070	132D-276-120	NEW	89-11-024
132D-20-030	REP-P	89-07-070	132D-20-220	REP	89-11-025	132D-276-130	NEW-P	89-07-062
132D-20-030	REP	89-11-025	132D-20-230	REP-P	89-05-012	132D-276-130	NEW	89-11-024
132D-20-040	REP-P	89-05-012	132D-20-230	REP-W	89-05-046	132D-276-140	NEW-P	89-07-062
132D-20-040	REP-W	89-05-046	132D-20-230	REP-P	89-07-070	132D-276-140	NEW	89-11-024
132D-20-040	REP-P	89-07-070	132D-20-230	REP	89-11-025	132D-280-010	NEW-P	89-07-063
132D-20-040	REP	89-11-025	132D-20-240	REP-P	89-05-012	132D-280-010	NEW	89-11-044
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132D-20-070	REP-W	89-05-046	132D-20-260	REP-P	89-07-070	132D-280-040	NEW	89-11-044
132D-20-070	REP-P	89-07-070	132D-20-260	REP	89-11-025	132D-300-010	NEW-P	89-07-058
132D-20-070	REP	89-11-025	132D-20-270	REP-P	89-05-012	132D-300-010	NEW	89-11-038
132D-20-080	REP-P	89-05-012	132D-20-270	REP-W	89-05-046	132D-300-020	NEW-P	89-07-058
132D-20-080	REP-W	89-05-046	132D-20-270	REP-P	89-07-070	132D-300-020	NEW	89-11-038
132D-20-080	REP-P	89-07-070	132D-20-270	REP	89-11-025	132D-300-030	NEW-P	89-07-058
132D-20-080	REP	89-11-025	132D-20-280	REP-P	89-05-012	132D-300-030	NEW	89-11-038
132D-20-090	REP-P	89-05-012	132D-20-280	REP-W	89-05-046	132D-325-010	NEW-P	89-05-048
132D-20-090	REP-W	89-05-046	132D-20-280	REP-P	89-07-070	132D-325-010	NEW	89-09-042
132D-20-090	REP-P	89-07-070	132D-20-280	REP	89-11-025	132D-350-010	NEW-P	89-07-064
132D-20-090	REP	89-11-025	132D-20-290	REP-P	89-05-012	132D-350-010	NEW	89-11-026
132D-20-100	REP-P	89-05-012	132D-20-290	REP-W	89-05-046	132D-350-020	NEW-P	89-07-064
132D-20-100	REP-W	89-05-046	132D-20-290	REP-P	89-07-070	132D-350-020	NEW	89-11-026
132D-20-100	REP-P	89-07-070	132D-20-290	REP	89-11-025	132D-350-030	NEW-P	89-07-064
132D-20-100	REP	89-11-025	132D-36-010	REP-P	89-05-048	132D-350-030	NEW	89-11-026
132D-20-110	REP-P	89-05-012	132D-36-010	REP	89-09-042	132D-350-040	NEW-P	89-07-064
132D-20-110	REP-W	89-05-046	132D-104-010	NEW-P	89-07-061	132D-350-040	NEW	89-11-026
132D-20-110	REP-P	89-07-070	132D-104-010	NEW	89-11-023	132D-350-050	NEW-P	89-07-064
132D-20-110	REP	89-11-025	132D-104-020	NEW-P	89-07-061	132D-350-050	NEW	89-11-026
132D-20-120	REP-P	89-05-012	132D-104-020	NEW	89-11-023	132F-120-090	AMD-P	89-08-069
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132D-20-120	REP-P	89-07-070	132D-104-030	NEW	89-11-023	132I-120-315	AMD-P	89-04-039
132D-20-120	REP	89-11-025	132D-104-040	NEW-P	89-07-061	132I-120-315	AMD	89-08-016
132D-20-130	REP-P	89-05-012	132D-104-040	NEW	89-11-023	132I-120-400	AMD-P	89-04-039
132D-20-130	REP-W	89-05-046	132D-122-010	NEW-P	89-05-006	132I-120-400	AMD	89-08-016
132D-20-130	REP-P	89-07-070	132D-122-010	NEW	89-09-039	132I-120-405	AMD-P	89-04-039
132D-20-130	REP	89-11-025	132D-122-020	NEW-P	89-05-006	132I-120-405	AMD	89-08-016
132D-20-140	REP-P	89-05-012	132D-122-020	NEW	89-09-039	132I-120-410	AMD-P	89-04-039
132D-20-140	REP-W	89-05-046	132D-122-030	NEW-P	89-05-006	132I-120-410	AMD	89-08-016
132D-20-140	REP-P	89-07-070	132D-122-030	NEW	89-09-039	132I-120-425	AMD-P	89-04-039
132D-20-140	REP	89-11-025	132D-140-010	NEW	89-06-012	132I-120-425	AMD	89-08-016
132D-20-150	REP-P	89-05-012	132D-140-020	NEW	89-06-012	132I-120-430	AMD-P	89-04-039
132D-20-150	REP-W	89-05-046	132D-140-030	NEW	89-06-012	132I-120-430	AMD	89-08-016
132D-20-150	REP-P	89-07-070	132D-140-040	NEW	89-06-012	132I-136-010	REP-P	89-08-015
132D-20-150	REP	89-11-025	132D-140-050	NEW	89-06-012	132I-136-010	REP	89-11-091
132D-20-160	REP-P	89-05-012	132D-140-060	NEW	89-06-012	132I-136-020	REP-P	89-08-015
132D-20-160	REP-W	89-05-046	132D-140-070	NEW	89-06-012	132I-136-020	REP	89-11-091
132D-20-160	REP-P	89-07-070	132D-140-080	NEW	89-06-012	132I-136-030	REP-P	89-08-015
132D-20-160	REP	89-11-025	132D-276-010	NEW-P	89-07-062	132I-136-030	REP	89-11-091
132D-20-170	REP-P	89-05-012	132D-276-010	NEW	89-11-024	132I-136-040	REP-P	89-08-015
132D-20-170	REP-W	89-05-046	132D-276-020	NEW-P	89-07-062	132I-136-040	REP	89-11-091
132D-20-170	REP-P	89-07-070	132D-276-030	NEW	89-11-024	132I-136-050	REP-P	89-08-015
132D-20-170	REP	89-11-025	132D-276-020	NEW-P	89-07-062	132I-136-050	REP	89-11-091
132D-20-180	REP-P	89-05-012	132D-276-030	NEW	89-11-024	132I-136-060	REP-P	89-08-015
132D-20-180	REP-W	89-05-046	132D-276-040	NEW-P	89-07-062	132I-136-060	REP	89-11-091
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132I-136-080	REP	89-11-091	132Y-320-120	NEW	89-12-057	137-56-140	AMD-P	89-02-058
132I-136-100	NEW-P	89-08-015	132Y-320-130	NEW-P	89-08-022	137-56-140	AMD-C	89-07-083
132I-136-100	NEW	89-11-091	132Y-320-130	NEW	89-12-057	137-56-150	AMD-P	89-02-058
132I-136-110	NEW-P	89-08-015	132Y-320-990	NEW-P	89-08-022	137-56-150	AMD-C	89-07-083
132I-136-110	NEW	89-11-091	132Y-320-990	NEW	89-12-057	137-56-160	AMD-P	89-02-058
132I-136-120	NEW-P	89-08-015	137-25-010	NEW-P	89-04-031	137-56-160	AMD-C	89-07-083
132I-136-120	NEW	89-11-091	137-25-010	NEW-E	89-06-010	137-56-170	AMD-P	89-02-058
132I-136-130	NEW-P	89-08-015	137-25-020	NEW-P	89-04-031	137-56-170	AMD-C	89-07-083
132I-136-130	NEW	89-11-091	137-25-020	NEW-E	89-06-010	137-56-180	AMD-P	89-02-058
132I-136-140	NEW	89-08-015	137-25-030	NEW-P	89-04-031	137-56-180	AMD-C	89-07-083
132I-136-140	NEW-P	89-11-091	137-25-030	NEW-E	89-06-010	137-56-190	AMD-P	89-02-058
132I-136-150	NEW-P	89-08-015	137-25-040	NEW-P	89-04-031	137-56-190	AMD-C	89-07-083
132I-136-150	NEW	89-11-091	137-25-040	NEW-E	89-06-010	137-56-200	AMD-P	89-02-058
132I-136-160	NEW-P	89-08-015	137-28-006	AMD	89-04-032	137-56-200	AMD-C	89-07-083
132I-136-160	NEW	89-11-091	137-28-025	AMD	89-04-032	137-56-210	AMD-P	89-02-058
132I-136-170	NEW-P	89-08-015	137-28-030	AMD	89-04-032	137-56-210	AMD-C	89-07-083
132I-136-170	NEW	89-11-091	137-28-035	AMD	89-04-032	137-56-220	AMD-P	89-02-058
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132N-276-070	AMD	89-12-024	137-28-090	AMD	89-04-032	137-56-230	AMD-P	89-02-058
132N-276-080	AMD-P	89-04-035	137-28-094	NEW	89-04-032	137-56-230	AMD-C	89-07-083
132N-276-080	AMD	89-12-024	137-28-097	AMD	89-04-032	137-56-240	AMD-P	89-02-058
132N-276-110	AMD-P	89-04-035	137-28-107	NEW	89-04-032	137-56-240	AMD-C	89-07-083
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132Q-04-035	AMD	89-07-068	137-44-050	NEW-P	89-11-029	137-78-040	NEW-P	89-11-108
132V-15-010	NEW-P	89-13-072	137-44-060	NEW-P	89-11-029	137-78-050	NEW-P	89-11-108
132V-15-020	NEW-P	89-13-072	137-44-070	NEW-P	89-11-029	137-78-060	NEW-P	89-11-108
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132V-15-120	NEW-P	89-13-072	137-44-170	NEW-P	89-11-029	154-04-040	REP	89-11-010
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132Y-300-004	NEW	89-04-008	137-44-210	NEW-P	89-11-029	154-04-065	NEW-P	89-07-090
132Y-310-010	NEW-P	89-08-023	137-44-220	NEW-P	89-11-029	154-04-065	NEW-E	89-11-008
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132Y-310-020	NEW-P	89-08-023	137-44-240	NEW-P	89-11-029	154-04-090	REP-P	89-07-090
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132Y-310-030	NEW	89-12-056	137-56-010	AMD-P	89-02-058	154-12-010	AMD-P	89-07-090
132Y-310-040	NEW-P	89-08-023	137-56-010	AMD-C	89-07-083	154-12-010	AMD-E	89-11-008
132Y-310-040	NEW	89-12-056	137-56-015	AMD-P	89-02-058	154-12-010	AMD	89-11-010
132Y-320-010	NEW-P	89-08-022	137-56-015	AMD-C	89-07-083	154-12-020	AMD-P	89-07-090
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132Y-320-030	NEW-P	89-08-022	137-56-040	AMD-C	89-07-083	154-12-030	AMD-E	89-11-008
132Y-320-030	NEW	89-12-057	137-56-050	AMD-P	89-02-058	154-12-030	AMD	89-11-010
132Y-320-040	NEW-P	89-08-022	137-56-050	AMD-C	89-07-083	154-12-040	AMD-P	89-07-090
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132Y-320-060	NEW-P	89-08-022	137-56-070	AMD-C	89-07-083	154-12-050	AMD-E	89-11-008
132Y-320-060	NEW	89-12-057	137-56-080	AMD-P	89-02-058	154-12-050	AMD	89-11-010
132Y-320-070	NEW-P	89-08-022	137-56-080	AMD-C	89-07-083	154-12-060	REP-P	89-07-090
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132Y-320-090	NEW-P	89-08-022	137-56-095	AMD-C	89-07-083	154-12-070	AMD-E	89-11-008
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154-16-020	REP 89-11-010	173-50-150	NEW 89-10-001	173-224-040	NEW-P 89-07-088
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154-20-010	REP-E 89-11-008	173-50-160	NEW 89-10-001	173-224-050	NEW-P 89-07-088
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220-57-465	AMD-P	89-03-075	230-02-176	NEW-P	89-05-064
220-57-465	AMD-C	89-07-059	230-02-176	NEW	89-09-047
220-57-465	AMD	89-07-060	230-02-179	NEW-P	89-05-064
220-57-470	AMD-P	89-03-075	230-02-179	NEW	89-09-047
220-57-470	AMD-C	89-07-059	230-02-182	NEW-P	89-05-064
220-57-470	AMD	89-07-060	230-02-182	NEW	89-09-047
220-57-475	AMD-P	89-03-075	230-02-185	NEW-P	89-05-064
220-57-475	AMD-C	89-07-059	230-02-185	NEW	89-09-047
220-57-475	AMD	89-07-060	230-02-188	NEW-P	89-05-064
220-57-490	AMD-P	89-03-075	230-02-188	NEW	89-09-047
220-57-490	AMD-C	89-07-059	230-02-191	NEW-P	89-05-064
220-57-490	AMD	89-07-060	230-02-191	NEW	89-09-047
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220-57-500	AMD-C	89-07-059	230-04-005	NEW-P	89-05-064
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220-57-502	AMD-P	89-03-075	230-04-010	AMD-P	89-05-064
220-57-502	AMD-C	89-07-059	230-04-010	AMD	89-09-047
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220-57-510	AMD-C	89-07-059	230-04-024	NEW	89-09-047
220-57-510	AMD	89-07-060	230-04-035	NEW-P	89-05-064
220-57-51500D	NEW-E	89-08-073	230-04-035	NEW	89-09-047
220-57-520	AMD-P	89-03-075	230-04-040	NEW-P	89-05-064
220-57-520	AMD-C	89-07-059	230-04-040	NEW	89-09-047
220-57-520	AMD	89-07-060	230-04-050	REP-P	89-05-064
220-57-525	AMD-P	89-03-075	230-04-050	REP	89-09-047
220-57-525	AMD-C	89-07-059	230-04-060	REP-P	89-05-064
220-57-525	AMD	89-07-060	230-04-060	REP	89-09-047
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220-57A-030	AMD-C	89-07-059	230-04-061	REP	89-09-047
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236-48-085	AMD-P	89-14-013	248-08-320	REP-E	89-14-096	248-14-090	AMD	89-08-054
236-48-093	AMD-P	89-14-013	248-08-330	REP-E	89-14-096	248-14-235	AMD-P	89-04-054

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248-14-247	AMD 89-08-054	248-27-001	REP-P 89-07-023	248-31-020	REP-P 89-07-023
248-14-270	AMD 89-06-050	248-27-001	REP 89-12-077	248-31-020	REP 89-12-077
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248-15-110	AMD-E 89-14-095	248-27-015	NEW-P 89-07-023	248-31-040	REP-P 89-07-023
248-16-001	AMD 89-09-034	248-27-015	NEW 89-12-077	248-31-040	REP 89-12-077
248-16-030	REP 89-09-034	248-27-020	REP-P 89-07-023	248-31-045	NEW-P 89-07-023
248-16-031	NEW 89-09-034	248-27-020	REP 89-12-077	248-31-045	NEW 89-12-077
248-16-031	AMD-E 89-14-095	248-27-025	NEW-P 89-07-023	248-31-050	REP-P 89-07-023
248-16-033	NEW 89-09-034	248-27-025	NEW 89-12-077	248-31-050	REP 89-12-077
248-16-035	REP 89-09-034	248-27-030	REP-P 89-07-023	248-31-055	NEW-P 89-07-023
248-16-036	NEW 89-09-034	248-27-030	REP 89-12-077	248-31-055	NEW 89-12-077
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248-16-080	AMD 89-09-034	248-27-055	NEW 89-12-077	248-31-077	NEW 89-12-077
248-16-090	AMD 89-09-034	248-27-060	REP-P 89-07-023	248-31-080	REP-P 89-07-023
248-16-105	AMD 89-09-034	248-27-060	REP 89-12-077	248-31-080	REP 89-12-077
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248-16-120	REP 89-09-034	248-27-070	REP-P 89-07-023	248-31-090	REP-P 89-07-023
248-16-121	NEW 89-09-034	248-27-070	REP 89-12-077	248-31-090	REP 89-12-077
248-16-130	REP 89-09-034	248-27-077	NEW-P 89-07-023	248-31-095	NEW-P 89-07-023
248-16-131	NEW 89-09-034	248-27-077	NEW 89-12-077	248-31-095	NEW 89-12-077
248-16-140	REP 89-09-034	248-27-080	REP-P 89-07-023	248-31-100	REP-P 89-07-023
248-16-141	NEW 89-09-034	248-27-080	REP 89-12-077	248-31-100	REP 89-12-077
248-16-150	AMD 89-09-034	248-27-085	NEW-P 89-07-023	248-31-105	NEW-P 89-07-023
248-16-160	AMD 89-09-034	248-27-085	NEW 89-12-077	248-31-105	NEW 89-12-077
248-16-170	AMD 89-09-034	248-27-090	REP-P 89-07-023	248-31-110	REP-P 89-07-023
248-16-180	AMD 89-09-034	248-27-090	REP 89-12-077	248-31-110	REP 89-12-077
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248-16-202	AMD 89-09-034	248-27-095	NEW 89-12-077	248-31-115	NEW 89-12-077
248-16-213	AMD 89-09-034	248-27-100	REP-P 89-07-023	248-31-120	REP-P 89-07-023
248-16-215	AMD 89-09-034	248-27-100	REP 89-12-077	248-31-120	REP 89-12-077
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248-16-226	AMD 89-09-034	248-27-115	NEW 89-12-077	248-31-130	REP 89-12-077
248-16-227	REP 89-09-034	248-27-120	REP-P 89-07-023	248-31-135	NEW-P 89-07-023
248-16-228	REP 89-09-034	248-27-120	REP 89-12-077	248-31-135	NEW 89-12-077
248-16-229	NEW 89-09-034	248-27-125	NEW-P 89-07-023	248-31-140	REP-P 89-07-023
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248-17-020	AMD-P 89-10-069	248-27-145	NEW 89-12-077	248-31-155	NEW 89-12-077
248-17-020	AMD-E 89-10-071	248-27-155	NEW-P 89-07-023	248-31-160	REP-P 89-07-023
248-17-060	AMD-E 89-14-095	248-27-155	NEW 89-12-077	248-31-160	REP 89-12-077
248-17-213	AMD-P 89-10-069	248-27-165	NEW-P 89-07-023	248-31-165	NEW-P 89-07-023
248-17-213	AMD-E 89-10-071	248-27-165	NEW 89-12-077	248-31-165	NEW 89-12-077
248-17-230	AMD-E 89-14-095	248-27-175	NEW-P 89-07-023	248-31-175	NEW-P 89-07-023
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248-25-010	AMD-E 89-14-095	248-31-010	REP-P 89-07-023	248-36-035	NEW-P 89-07-023
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248-36-065	NEW-P	89-07-023	248-105-080	AMD-P	89-13-079	248-144-170	REP-P	89-08-098
248-36-065	NEW	89-12-077	248-105-090	AMD-P	89-13-079	248-144-170	REP	89-11-058
248-36-077	NEW-P	89-07-023	248-105-100	AMD-P	89-13-079	248-144-171	NEW-P	89-08-098
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248-36-085	NEW-P	89-07-023	248-124-990	REP	89-10-023	248-144-180	REP-P	89-08-098
248-36-085	NEW	89-12-077	248-124-99001	REP-P	89-06-047	248-144-180	REP	89-11-058
248-36-095	NEW-P	89-07-023	248-124-99001	REP	89-10-023	248-144-181	NEW-P	89-08-098
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248-36-105	NEW-P	89-07-023	248-124-99002	REP	89-10-023	248-144-190	REP-P	89-08-098
248-36-105	NEW	89-12-077	248-124-99003	REP-P	89-06-047	248-144-190	REP	89-11-058
248-36-115	NEW-P	89-07-023	248-124-99003	REP	89-10-023	248-144-191	NEW-P	89-08-098
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248-36-125	NEW-P	89-07-023	248-124-99004	REP	89-10-023	248-144-200	REP-P	89-08-098
248-36-125	NEW	89-12-077	248-140-200	AMD-E	89-14-097	248-144-200	REP	89-11-058
248-36-135	NEW-P	89-07-023	248-144-010	AMD-P	89-08-098	248-144-201	NEW-P	89-08-098
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248-36-165	NEW	89-12-077	248-144-020	AMD	89-11-058	248-144-210	REP	89-11-058
248-54-005	AMD-P	89-14-079	248-144-030	REP-P	89-08-098	248-144-211	NEW-P	89-08-098
248-54-006	NEW-P	89-14-079	248-144-030	REP	89-11-058	248-144-211	NEW	89-11-058
248-54-015	AMD-P	89-14-079	248-144-031	NEW-P	89-08-098	248-144-220	REP-P	89-08-098
248-54-025	AMD-P	89-14-079	248-144-031	NEW	89-11-058	248-144-220	REP	89-11-058
248-54-035	AMD-P	89-14-079	248-144-031	AMD-E	89-14-097	248-144-230	REP-P	89-08-098
248-54-045	AMD-P	89-14-079	248-144-035	REP-P	89-08-098	248-144-230	REP	89-11-058
248-54-055	AMD-P	89-14-079	248-144-035	REP	89-11-058	248-144-240	REP-P	89-08-098
248-54-086	AMD-P	89-14-079	248-144-040	REP-P	89-08-098	248-144-240	REP	89-11-058
248-54-097	AMD-P	89-14-079	248-144-040	REP	89-11-058	248-320-340	NEW-E	89-14-096
248-54-098	NEW-P	89-14-079	248-144-041	NEW-P	89-08-098	248-320-350	NEW-E	89-14-096
248-54-165	AMD-P	89-14-079	248-144-041	NEW	89-11-058	248-320-360	NEW-E	89-14-096
248-54-175	AMD-P	89-14-079	248-144-050	REP-P	89-08-098	248-320-370	NEW-E	89-14-096
248-54-185	AMD-P	89-14-079	248-144-050	REP	89-11-058	248-320-400	NEW-E	89-14-096
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248-54-196	AMD-P	89-14-079	248-144-051	NEW	89-11-058	248-320-500	NEW-E	89-14-096
248-54-201	AMD-P	89-14-079	248-144-060	REP-P	89-08-098	248-554-030	AMD-E	89-14-098
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248-54-265	AMD-P	89-14-079	248-144-061	NEW-P	89-08-098	250-44-050	AMD	89-08-056
248-54-285	AMD-P	89-14-079	248-144-061	NEW	89-11-058	250-44-050	AMD-E	89-08-057
248-55-220	AMD-E	89-14-095	248-144-070	REP-P	89-08-098	250-44-110	AMD-P	89-04-048
248-55-230	REP-E	89-14-095	248-144-070	REP	89-11-058	250-44-110	AMD	89-08-056
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248-55-240	AMD-E	89-14-095	248-144-071	NEW	89-11-058	250-44-130	AMD-P	89-04-048
248-55-250	AMD-E	89-14-095	248-144-080	REP-P	89-08-098	250-44-130	AMD	89-08-056
248-55-260	REP-E	89-14-095	248-144-080	REP	89-11-058	250-44-130	AMD-E	89-08-057
248-56-500	AMD-P	89-11-055	248-144-081	NEW-P	89-08-098	251-01-077	NEW-P	89-06-044
248-56-510	AMD-P	89-11-055	248-144-081	NEW	89-11-058	251-01-077	NEW-P	89-06-045
248-57-500	AMD-P	89-11-055	248-144-090	REP-P	89-08-098	251-01-077	NEW-W	89-09-060
248-58-085	NEW-E	89-14-097	248-144-090	REP	89-11-058	251-01-077	NEW-C	89-09-061
248-59-030	AMD-E	89-14-095	248-144-091	NEW-P	89-08-098	251-01-077	NEW	89-13-074
248-59-040	REP-E	89-14-095	248-144-091	NEW	89-11-058	251-01-078	NEW-P	89-06-044
248-59-050	REP-E	89-14-095	248-144-100	REP-P	89-08-098	251-01-078	NEW-P	89-06-045
248-59-060	REP-E	89-14-095	248-144-100	REP	89-11-058	251-01-078	NEW-W	89-09-060
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248-59-080	REP-E	89-14-095	248-144-101	NEW	89-11-058	251-01-415	AMD-P	89-06-044
248-91-060	AMD-E	89-14-095	248-144-110	REP-P	89-08-098	251-01-415	AMD-P	89-06-045
248-96-020	AMD-P	89-14-126	248-144-110	REP	89-11-058	251-01-415	AMD-W	89-09-060
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248-96-046	AMD-P	89-14-126	248-144-111	NEW	89-11-058	251-01-415	AMD-P	89-09-063
248-96-060	AMD-P	89-14-126	248-144-120	REP-P	89-08-098	251-01-415	AMD	89-13-074
248-96-110	AMD-P	89-14-126	248-144-120	REP	89-11-058	251-01-416	NEW-P	89-09-063
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248-96-125	NEW-P	89-14-126	248-144-121	NEW	89-11-058	251-04-040	AMD-P	89-06-044
248-97-130	AMD-E	89-14-097	248-144-130	REP-P	89-08-098	251-04-040	AMD-P	89-06-045
248-97-135	NEW-E	89-14-097	248-144-130	REP	89-11-058	251-04-040	AMD-W	89-09-060
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248-100-011	AMD	89-07-095	248-144-131	NEW	89-11-058	251-04-040	AMD-P	89-09-063
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248-100-207	AMD-E	89-10-022	248-144-141	NEW	89-11-058	251-07-100	NEW-W	89-09-060
248-100-207	AMD	89-14-003	248-144-150	REP-P	89-08-098	251-07-100	NEW-C	89-09-061
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248-105-020	AMD-P	89-13-079	248-144-151	NEW-P	89-08-098	251-08-110	AMD-C	89-05-043
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308-52-640	NEW	89-13-002	308-77-044	NEW	89-03-034	308-124A-025	AMD	89-08-009
308-52-650	NEW-P	89-09-067	308-77-060	AMD	89-03-005	308-124A-460	AMD-P	89-05-057
308-52-650	NEW	89-13-002	308-89-040	AMD-P	89-08-091	308-124A-460	AMD-E	89-07-004
308-52-660	NEW-P	89-09-067	308-89-040	AMD-E	89-08-094	308-124A-460	AMD	89-08-009
308-52-660	NEW	89-13-002	308-90-080	AMD-E	89-14-091	308-124D-060	REP-P	89-07-091
308-52-670	NEW-P	89-09-067	308-91	AMD-P	89-02-063	308-124D-060	REP	89-11-032
308-52-670	NEW	89-13-002	308-91	AMD	89-07-035	308-124D-065	REP-P	89-07-091
308-53-120	AMD-P	89-06-070	308-91-030	AMD-P	89-02-062	308-124D-065	REP	89-11-032
308-53-120	AMD	89-10-030	308-91-030	AMD	89-07-036	308-124H-030	AMD-P	89-07-091
308-53-123	NEW-P	89-06-070	308-91-040	AMD-P	89-02-063	308-124H-030	AMD	89-11-032
308-53-123	NEW	89-10-030	308-91-040	AMD	89-07-035	308-128E-010	REP-P	89-04-001
308-53-125	AMD-P	89-06-070	308-91-050	AMD-P	89-02-063	308-128E-010	REP	89-07-077
308-53-125	AMD	89-10-030	308-91-050	AMD	89-07-035	308-128E-011	NEW-P	89-04-001
308-53-130	REP-P	89-06-070	308-91-140	AMD-P	89-02-063	308-128E-011	NEW	89-07-077
308-53-130	REP	89-10-030	308-91-140	AMD	89-07-035	308-130-320	NEW-P	89-10-077
308-53-135	AMD-P	89-06-070	308-96A-260	AMD-P	89-08-091	308-130-320	NEW	89-14-092
308-53-135	AMD	89-10-030	308-96A-260	AMD-E	89-08-094	308-130-330	NEW-P	89-10-077
308-53-145	AMD-P	89-06-070	308-115-260	NEW-P	89-10-077	308-130-330	NEW	89-14-092
308-53-145	AMD	89-10-030	308-115-260	NEW	89-14-092	308-130-340	NEW-P	89-10-077
308-53-146	AMD-P	89-06-070	308-115-270	NEW-P	89-10-077	308-130-340	NEW	89-14-092
308-53-146	AMD	89-10-030	308-115-270	NEW	89-14-092	308-130-350	NEW-P	89-10-077
308-53-150	AMD-P	89-06-070	308-115-280	NEW-P	89-10-077	308-130-350	NEW	89-14-092
308-53-150	AMD	89-10-030	308-115-280	NEW	89-14-092	308-130-360	NEW-P	89-10-077
308-53-151	AMD-P	89-06-070	308-115-290	NEW-P	89-10-077	308-130-360	NEW	89-14-092
308-53-151	AMD	89-10-030	308-115-290	NEW	89-14-092	308-130-370	NEW-P	89-10-077
308-53-165	AMD-P	89-06-070	308-115-310	NEW-P	89-10-077	308-130-370	NEW	89-14-092
308-53-165	AMD	89-10-030	308-115-310	NEW	89-14-092	308-130-380	NEW-P	89-10-077
308-53-170	AMD-P	89-06-070	308-115-320	NEW-P	89-10-077	308-130-380	NEW	89-14-092
308-53-170	AMD	89-10-030	308-115-320	NEW	89-14-092	308-130-390	NEW-P	89-10-077
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308-53-175	NEW	89-10-030	308-115-330	NEW	89-14-092	308-130-400	NEW-P	89-10-077
308-53-180	AMD-P	89-06-070	308-115-340	NEW-P	89-10-077	308-130-400	NEW	89-14-092
308-53-180	AMD	89-10-030	308-115-340	NEW	89-14-092	308-138A-020	AMD-P	89-13-051
308-53-330	NEW-P	89-13-062	308-115-350	NEW-P	89-10-077	308-138A-070	NEW-P	89-13-051
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308-53-400	NEW	89-09-027	308-115-405	AMD	89-08-008	308-150-014	AMD-P	89-06-073
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308-173-080	NEW	89-14-092	308-190-030	AMD	89-14-070	308-210-150	NEW-P	89-10-077
308-173-090	NEW-P	89-10-077	308-190-040	AMD-P	89-07-081	308-210-150	NEW	89-14-092
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308-177-010	NEW	89-14-092	308-190-041	NEW	89-14-070	308-220-010	AMD	89-04-003
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308-177-030	NEW-P	89-10-077	308-190-060	NEW-P	89-10-077	308-220-090	NEW	89-14-092
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308-177-120	AMD-P	89-14-104	308-195-120	NEW	89-14-092	308-230-080	NEW-P	89-10-077
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308-180-330	NEW-P	89-10-077	308-210-010	AMD	89-14-071	308-400-040	AMD	89-06-078
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308-180-370	NEW	89-14-092	308-210-050	AMD-P	89-07-082	308-400-095	AMD	89-06-078
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388-81-043	AMD	89-05-029	388-96-722	AMD-P	89-08-046	392-126-380	REP-P	89-14-033
388-81-052	AMD-P	89-14-057	388-96-904	AMD-E	89-14-098	392-126-385	REP-P	89-14-033

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419-70-020	NEW-P 89-11-094	456-08-190	REP 89-10-055	456-08-670	REP-P 89-06-062
419-70-030	NEW-P 89-11-094	456-08-200	REP-P 89-06-062	456-08-670	REP 89-10-055
419-70-040	NEW-P 89-11-094	456-08-200	REP 89-10-055	456-08-700	REP-P 89-06-062
419-70-050	NEW-P 89-11-094	456-08-220	REP-P 89-06-062	456-08-700	REP 89-10-055
419-72-010	NEW-P 89-11-095	456-08-220	REP 89-10-055	456-08-705	REP-P 89-06-062
419-72-015	NEW-P 89-11-095	456-08-230	REP-P 89-06-062	456-08-705	REP 89-10-055
419-72-020	NEW-P 89-11-095	456-08-230	REP 89-10-055	456-08-710	REP-P 89-06-062
419-72-025	NEW-P 89-11-095	456-08-240	REP-P 89-06-062	456-08-710	REP 89-10-055
419-72-030	NEW-P 89-11-095	456-08-240	REP 89-10-055	456-08-715	REP-P 89-06-062
419-72-035	NEW-P 89-11-095	456-08-250	REP-P 89-06-062	456-08-715	REP 89-10-055
419-72-040	NEW-P 89-11-095	456-08-250	REP 89-10-055	456-08-720	REP-P 89-06-062
419-72-045	NEW-P 89-11-095	456-08-260	REP-P 89-06-062	456-08-720	REP 89-10-055
419-72-050	NEW-P 89-11-095	456-08-260	REP 89-10-055	456-08-725	REP-P 89-06-062
419-72-055	NEW-P 89-11-095	456-08-270	REP-P 89-06-062	456-08-725	REP 89-10-055
419-72-060	NEW-P 89-11-095	456-08-270	REP 89-10-055	456-08-730	REP-P 89-06-062
419-72-065	NEW-P 89-11-095	456-08-280	REP-P 89-06-062	456-08-730	REP 89-10-055
419-72-070	NEW-P 89-11-095	456-08-280	REP 89-10-055	456-08-735	REP-P 89-06-062
419-72-075	NEW-P 89-11-095	456-08-290	REP-P 89-06-062	456-08-735	REP 89-10-055
419-72-080	NEW-P 89-11-095	456-08-290	REP 89-10-055	456-08-740	REP-P 89-06-062
419-72-090	NEW-P 89-11-095	456-08-300	REP-P 89-06-062	456-08-740	REP 89-10-055
419-72-095	NEW-P 89-11-095	456-08-300	REP 89-10-055	456-09-010	NEW-P 89-06-063
440-44-023	AMD-P 89-12-076	456-08-310	REP-P 89-06-062	456-09-010	NEW 89-10-056
440-44-023	AMD-E 89-14-061	456-08-310	REP 89-10-055	456-09-110	NEW-P 89-06-063
440-44-040	AMD-P 89-12-076	456-08-320	REP-P 89-06-062	456-09-110	NEW 89-10-056
440-44-040	AMD-E 89-14-061	456-08-320	REP 89-10-055	456-09-120	NEW-P 89-06-063
440-44-041	NEW-P 89-12-076	456-08-330	REP-P 89-06-062	456-09-120	NEW 89-10-056
440-44-041	NEW-E 89-14-061	456-08-330	REP 89-10-055	456-09-130	NEW-P 89-06-063
440-44-042	NEW-P 89-12-076	456-08-340	REP-P 89-06-062	456-09-130	NEW 89-10-056
440-44-042	NEW-E 89-14-061	456-08-340	REP 89-10-055	456-09-140	NEW-P 89-06-063
440-44-043	NEW-P 89-12-076	456-08-350	REP-P 89-06-062	456-09-140	NEW 89-10-056
440-44-043	NEW-E 89-14-061	456-08-350	REP 89-10-055	456-09-150	NEW-P 89-06-063
440-44-050	AMD-P 89-12-076	456-08-360	REP-P 89-06-062	456-09-150	NEW 89-10-056
440-44-050	AMD-E 89-14-061	456-08-360	REP 89-10-055	456-09-160	NEW-P 89-06-063
446-20-285	AMD-E 89-14-038	456-08-365	REP-P 89-06-062	456-09-160	NEW 89-10-056
446-40-020	AMD-E 89-10-011	456-08-365	REP 89-10-055	456-09-170	NEW-P 89-06-063
446-40-020	AMD 89-10-015	456-08-370	REP-P 89-06-062	456-09-170	NEW 89-10-056
446-40-025	NEW-E 89-10-011	456-08-370	REP 89-10-055	456-09-210	NEW-P 89-06-063
446-40-025	NEW 89-10-015	456-08-380	REP-P 89-06-062	456-09-210	NEW 89-10-056
456-08-001	REP-P 89-06-062	456-08-380	REP 89-10-055	456-09-220	NEW-P 89-06-063
456-08-001	REP 89-10-055	456-08-400	REP-P 89-06-062	456-09-220	NEW 89-10-056
456-08-002	REP-P 89-06-062	456-08-400	REP 89-10-055	456-09-230	NEW-P 89-06-063
456-08-002	REP 89-10-055	456-08-401	REP-P 89-06-062	456-09-230	NEW 89-10-056
456-08-003	REP-P 89-06-062	456-08-401	REP 89-10-055	456-09-310	NEW-P 89-06-063
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456-08-003	REP 89-10-055	456-08-405	REP 89-10-055	456-09-315	NEW-P 89-06-063
456-08-004	REP-P 89-06-062	456-08-408	REP-P 89-06-062	456-09-315	NEW 89-10-056
456-08-004	REP-E 89-07-031	456-08-408	REP 89-10-055	456-09-320	NEW-P 89-06-063
456-08-004	REP 89-10-055	456-08-420	REP-P 89-06-062	456-09-320	NEW 89-10-056
456-08-005	REP-P 89-06-062	456-08-420	REP 89-10-055	456-09-325	NEW-P 89-06-063
456-08-005	REP 89-10-055	456-08-430	REP-P 89-06-062	456-09-325	NEW 89-10-056
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456-08-006	REP 89-10-055	456-08-510	REP-P 89-06-062	456-09-330	NEW 89-10-056
456-08-007	REP-P 89-06-062	456-08-510	REP 89-10-055	456-09-335	NEW-P 89-06-063
456-08-007	REP 89-10-055	456-08-520	REP-P 89-06-062	456-09-335	NEW 89-10-056
456-08-010	REP-P 89-06-062	456-08-520	REP 89-10-055	456-09-340	NEW-P 89-06-063
456-08-010	REP 89-10-055	456-08-532	REP-P 89-06-062	456-09-340	NEW 89-10-056
456-08-040	REP-P 89-06-062	456-08-532	REP 89-10-055	456-09-345	NEW-P 89-06-063
456-08-040	REP 89-10-055	456-08-535	REP-P 89-06-062	456-09-345	NEW 89-10-056
456-08-045	REP-P 89-06-062	456-08-535	REP 89-10-055	456-09-350	NEW-P 89-06-063
456-08-045	REP 89-10-055	456-08-540	REP-P 89-06-062	456-09-350	NEW 89-10-056
456-08-070	REP-P 89-06-062	456-08-540	REP 89-10-055	456-09-355	NEW-P 89-06-063
456-08-070	REP 89-10-055	456-08-540	REP-P 89-06-062	456-09-355	NEW 89-10-056
456-08-080	REP-P 89-06-062	456-08-600	REP 89-10-055	456-09-360	NEW-P 89-06-063
456-08-080	REP 89-10-055	456-08-600	REP-P 89-06-062	456-09-360	NEW 89-10-056
456-08-090	REP-P 89-06-062	456-08-610	REP 89-10-055	456-09-365	NEW-P 89-06-063
456-08-090	REP 89-10-055	456-08-610	REP-P 89-06-062	456-09-365	NEW 89-10-056
456-08-092	REP-P 89-06-062	456-08-620	REP 89-10-055	456-09-410	NEW-P 89-06-063
456-08-092	REP 89-10-055	456-08-620	REP-P 89-06-062	456-09-410	NEW 89-10-056
456-08-150	REP-P 89-06-062	456-08-630	REP 89-10-055	456-09-420	NEW-P 89-06-063
456-08-150	REP 89-10-055	456-08-630	REP-P 89-06-062	456-09-420	NEW 89-10-056
456-08-160	REP-P 89-06-062	456-08-635	REP 89-10-055	456-09-430	NEW-P 89-06-063
456-08-160	REP 89-10-055	456-08-640	REP-P 89-06-062	456-09-430	NEW 89-10-056
456-08-170	REP-P 89-06-062	456-08-640	REP 89-10-055	456-09-440	NEW-P 89-06-063
456-08-170	REP 89-10-055	456-08-650	REP-P 89-06-062	456-09-440	NEW 89-10-056
456-08-180	REP-P 89-06-062	456-08-650	REP 89-10-055	456-09-510	NEW-P 89-06-063
456-08-180	REP 89-10-055	456-08-660	REP-P 89-06-062	456-09-510	NEW 89-10-056
456-08-190	REP-P 89-06-062	456-08-660	REP 89-10-055	456-09-520	NEW-P 89-06-063

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458-14-045	REP-P 89-07-087	458-53-150	AMD-P 89-05-053	468-16-050	NEW-W 89-08-064
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458-14-055	REP-P 89-07-087	458-53-163	AMD 89-09-021	468-16-070	NEW-P 89-07-034
458-14-060	REP-P 89-07-087	460-10A-160	AMD-P 89-13-066	468-16-070	NEW-W 89-08-064
458-14-062	REP-P 89-07-087	460-20A-008	NEW-P 89-13-066	468-16-080	NEW-P 89-07-034
458-14-065	REP-P 89-07-087	460-20A-220	AMD-P 89-13-067	468-16-080	NEW-W 89-08-064
458-14-070	REP-P 89-07-087	460-20A-220	AMD-P 89-13-068	468-16-090	NEW-P 89-07-034
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458-14-098	REP-P 89-07-087	460-33A-055	AMD-P 89-13-068	468-16-130	NEW-W 89-08-064
458-14-100	REP-P 89-07-087	460-33A-065	AMD-P 89-13-068	468-16-140	NEW-P 89-07-034
458-14-110	REP-P 89-07-087	460-33A-080	AMD-P 89-13-068	468-16-140	NEW-W 89-08-064
458-14-115	REP-P 89-07-087	460-33A-085	AMD-P 89-13-068	468-16-150	NEW-P 89-07-034
458-14-120	REP-P 89-07-087	460-33A-105	AMD-P 89-13-068	468-16-150	NEW-W 89-08-064
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458-14-125	REP-P 89-07-087	460-42A-081	AMD-P 89-13-066	468-16-170	NEW-P 89-07-034
458-14-126	REP-P 89-07-087	460-44A-500	AMD-P 89-13-070	468-16-170	NEW-W 89-08-064
458-14-130	REP-P 89-07-087	460-44A-501	AMD-P 89-13-070	468-16-180	NEW-P 89-07-034
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458-16-115	NEW-P 89-05-052	460-46A-050	AMD-P 89-03-044	468-18	REVIEW 89-06-038
458-16-115	NEW-W 89-08-036	460-46A-050	AMD 89-07-042	468-30	REVIEW 89-08-061
458-16-115	NEW-E 89-08-037	460-46A-060	REP-P 89-03-044	468-34	REVIEW 89-08-061
458-16-115	NEW-P 89-09-074	460-46A-060	REP 89-07-042	468-34-020	AMD 89-05-022
458-16-115	NEW 89-12-013	460-46A-070	REP-P 89-03-044	468-34-060	AMD 89-05-022
458-18-220	AMD 89-10-067	460-46A-070	REP 89-07-042	468-34-100	AMD 89-05-022
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458-20-252	AMD-C 89-04-042	460-46A-092	NEW 89-07-042	468-34-210	AMD 89-05-022
458-20-252	AMD-E 89-06-005	460-46A-095	AMD-P 89-03-044	468-34-220	AMD 89-05-022
458-20-252	AMD-W 89-07-084	460-46A-095	AMD 89-07-042	468-34-250	AMD 89-05-022
458-20-252	AMD-P 89-07-085	460-46A-105	AMD-P 89-03-044	468-34-290	AMD 89-05-022
458-20-252	AMD 89-10-051	460-46A-105	AMD 89-07-042	468-34-300	AMD 89-05-022
458-20-252	AMD-E 89-10-052	460-46A-110	AMD-P 89-03-044	468-34-320	AMD 89-05-022
458-20-252	AMD-P 89-13-086	460-46A-110	AMD 89-07-042	468-34-340	AMD 89-05-022
458-20-252	AMD-E 89-13-088	460-46A-120	REP-P 89-03-044	468-34-350	NEW 89-05-022
458-20-254	NEW-P 89-08-089	460-46A-120	REP 89-07-042	468-38	REVIEW 89-13-027
458-20-254	NEW 89-11-040	460-46A-145	AMD-P 89-03-044	468-46	REVIEW 89-13-027
458-20-255	NEW-P 89-13-041	460-46A-145	AMD 89-07-042	468-54	REVIEW 89-08-061
458-20-255	NEW-E 89-13-042	460-46A-150	AMD-P 89-03-044	468-58	REVIEW 89-08-061
458-30-260	AMD 89-05-009	460-46A-150	AMD 89-07-042	468-78	REVIEW 89-13-027
458-30-261	NEW 89-05-008	460-46A-155	AMD-P 89-03-044	468-100-001	NEW-P 89-14-039
458-30-590	AMD 89-05-010	460-46A-155	AMD 89-07-042	468-100-002	NEW-P 89-14-039
458-40-660	AMD-P 89-10-061	468-06	REVIEW 89-06-038	468-100-003	NEW-P 89-14-039
458-40-660	AMD-E 89-14-050	468-06-030	AMD-P 89-14-019	468-100-004	NEW-P 89-14-039
458-40-660	AMD 89-14-051	468-06-040	AMD-P 89-14-019	468-100-005	NEW-P 89-14-039
458-40-670	AMD-P 89-10-061	468-06-050	AMD-P 89-14-019	468-100-006	NEW-P 89-14-039
458-40-670	AMD-E 89-14-050	468-10	REVIEW 89-06-038	468-100-007	NEW-P 89-14-039
458-40-670	AMD 89-14-051	468-12	REVIEW 89-06-038	468-100-008	NEW-P 89-14-039
458-53-020	AMD-P 89-05-053	468-14	REVIEW 89-08-061	468-100-009	NEW-P 89-14-039
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458-53-070	AMD 89-09-021	468-16-030	NEW-P 89-07-034	468-100-104	NEW-P 89-14-039
458-53-100	AMD-P 89-05-053	468-16-030	NEW-W 89-08-064	468-100-105	NEW-P 89-14-039
458-53-100	AMD 89-09-021	468-16-040	NEW-P 89-07-034	468-100-106	NEW-P 89-14-039
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468-100-204	NEW-P	89-14-039	479-112-005	NEW-E	89-10-054	480-08-208	NEW-C	89-11-085
468-100-205	NEW-P	89-14-039	479-112-005	NEW	89-14-005	480-08-208	NEW-C	89-13-028
468-100-206	NEW-P	89-14-039	479-112-007	NEW-P	89-10-053	480-09-010	NEW-P	89-13-090
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468-100-302	NEW-P	89-14-039	479-112-008	NEW-E	89-10-054	480-09-130	NEW-P	89-13-090
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