

WAC 461-08-365 Board decision making on petitions for review of department rules and regulations. (1) Where a petition for review of a department rule or regulation adopted pursuant to chapter 90.58 RCW is filed, the full board shall hold a hearing on the petition, and within sixty days of the final day of hearing, shall issue a decision upholding the validity of the rule, regulation or guideline, unless the board finds that the rule, regulation or guideline:

- (a) Is clearly erroneous in light of the policy of this chapter;
- (b) Constitutes an implementation of chapter 90.58 RCW in violation of the Constitution or statutes;
- (c) Is arbitrary and capricious;
- (d) Was developed without full consideration and evaluation of all material submitted to the department during public review and comment; or
- (e) Was not adopted in accordance with required procedures.

(2) Where the board decides that the rule, regulation or guideline is invalid under subsection (1)(a) through (e) of this section, the board shall enter a decision stating the reasons for its determination and remanding the rule, regulation or guideline to the department in accordance with RCW 90.58.180(6).

[Statutory Authority: RCW 90.58.175. WSR 96-15-002, § 461-08-365, filed 7/3/96, effective 8/3/96.]