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filed not later than March 21, 1984

CITATION

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DENNIS W. COOPER
Code Reviser

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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 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 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 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 MATTER

RCW 34.04.058 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 matter is new matter;
 - (ii) deleted matter 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 or the HEAPA 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 take effect thirty days after the rules and the agency order adopting them are filed with the code reviser. This effective date may be delayed, but not advanced, and a delayed 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 and remain effective for a maximum of ninety days from that date.
- (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 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.

1983 - 1984

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Action Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS	Count 20 days from—	For hearing/adoption on or after
For Inclusion in—	File no later than—				
83-18	Aug 10	Aug 24	Sep 7	Sep 21	Oct 11
83-19	Aug 24	Sep 7	Sep 21	Oct 5	Oct 25
83-20	Sep 7	Sep 21	Oct 5	Oct 19	Nov 8
83-21	Sep 21	Oct 5	Oct 19	Nov 2	Nov 22
83-22	Oct 5	Oct 19	Nov 2	Nov 16	Dec 6
83-23	Oct 26	Nov 9	Nov 23	Dec 7	Dec 27
83-24	Nov 9	Nov 23	Dec 7	Dec 21	Jan 10, 1984
<hr/>					
84-01	Nov 23	Dec 7	Dec 21, 1983	Jan 4, 1984	Jan 24
84-02	Dec 7	Dec 21, 1983	Jan 4, 1984	Jan 18	Feb 7
84-03	Dec 21, 1983	Jan 4 1984	Jan 18	Feb 1	Feb 21
84-04	Jan 4	Jan 18	Feb 1	Feb 15	Mar 6
84-05	Jan 25	Feb 8	Feb 22	Mar 7	Mar 27
84-06	Feb 8	Feb 22	Mar 7	Mar 21	Apr 10
84-07	Feb 22	Mar 7	Mar 21	Apr 4	Apr 24
84-08	Mar 7	Mar 21	Apr 4	Apr 18	May 8
84-09	Mar 21	Apr 4	Apr 18	May 2	May 22
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84-11	Apr 25	May 9	May 23	Jun 6	Jun 26
84-12	May 9	May 23	Jun 6	Jun 20	Jul 10
84-13	*May 24	*Jun 7	*Jun 21	*Jul 5	*Jul 25
84-14	Jun 6	Jun 20	*Jul 3	Jul 18	Aug 7
84-15	Jun 20	*Jul 3	Jul 18	Aug 1	Aug 21
84-16	*Jul 3	Jul 18	Aug 1	Aug 15	Sep 4
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84-22	Oct 10	Oct 24	Nov 7	Nov 21	Dec 11
84-23	Oct 24	Nov 7	Nov 21	Dec 5	Dec 25
84-24	Nov 7	Nov 21	Dec 5	Dec 19	Jan 8, 1985

*Dates adjusted to accomodate July 4th holiday on normal distribution and closing date. See WAC 1-12-030(5)(c) and 1-13-030(5)(c).

¹All documents are due at the Code Reviser's Office by 5:00 p.m. on the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-12-035 or 1-13-035.

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 1-12-220 or 1-13-240. 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.

³"No proceeding may be held on any rule until twenty days have passed from the distribution date of the Register in which notice thereof was contained." RCW 28B.19.030(4) and 34.04.025(4). These dates represent the twentieth day after the distribution date of the applicable Register.

WSR 84-07-001
PROPOSED RULES
JUDICIAL QUALIFICATIONS COMMISSION
 [Filed March 8, 1984]

Reviser's note: The following proposal has not been filed in accordance with chapter 34.04 RCW, and its publication in the Register establishes no presumption as to the propriety or impropriety of the procedure being followed by the Judicial Qualifications Commission.

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JUDICIAL QUALIFICATIONS COMMISSION

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JUDICIAL QUALIFICATION COMMISSION RULES

Originally Adopted October 14, 1981

RULE 1. SCOPE AND TITLE

- (a) Scope. These rules apply to proceedings before the Judicial Qualifications Commission created by Article IV, Section 31, of the Constitution of the State of Washington, and governed by ~~Ch. 268, Laws of 1981~~; RCW 2.64. These rules govern the procedure for considering allegations that a judge has violated a rule of judicial conduct, or has a disability which is permanent or likely to become permanent and which seriously interferes with the performance of judicial duties.
- (b) Title. These rules shall be known as the Judicial Qualifications Commission Rules and may be abbreviated as JQCR.
- (c) Supreme Court Rules. Supreme Court consideration of Judicial Qualifications Commission recommendations is governed by the Discipline Rules for Judges (DRJ) adopted by the Supreme Court.

RULE 2. DEFINITIONS

In these rules,

(a) ~~"Admonition"~~ "Admonishment," when issued by the commission, means a written informal disposition of an allegation consented to by the judge which cautions the judge not to engage in certain proscribed behavior and may contain agreed corrective action to be taken by the judge.

(b) "Allegation" means a statement or communication alleging

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facts which may upon investigation lead to a finding of judicial misconduct or disability.

(c) "Chairperson" includes the acting chairperson.

(d) "Commission" means the Judicial Qualifications Commission.

(e) "Complaint" means the formal charge of judicial misconduct or disability filed by the commission and forming the basis for a fact-finding hearing.

(f) "Fact-finder" means the commission, or at the discretion of the commission, a three-member subcommittee consisting of any members or alternates of the commission or a master.

(g) "Hearing" means a meeting for the purpose of taking evidence and conducted by a fact-finder.

(h) "Judge" means a judge or justice and includes justices of the supreme court, judges of the court of appeals, judges of the superior court, judges of any court organized under Titles 3, 35, or 35A RCW, and judges pro tempore. The term includes full-time and part-time judges and judges who have been or have not been admitted to the practice of law in Washington.

(i) "Master" means a person appointed by the commission to hear and take evidence with respect to charges against a judge.

(j) "Meeting" means a meeting of the commission for any purpose other than the taking of evidence for fact-finding.

(k) "Member" means a member of the commission and includes alternates acting as members.

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(l) "Party" means the judge or the commission.

(m) "Reprimand," when issued by the commission, is an informal action of the commission, consented to by the judge, finding that the judge's conduct is unacceptable but does not require a formal recommendation for discipline to the Supreme Court.

RULE 3. ORGANIZATION OF THE COMMISSION

(a) Officers. The commission shall elect from its members a chairperson, and a vice-chairperson, and secretary, each of whom shall serve a term of two years or until they cease to be members of the commission, whichever period is shorter. The vice-chairperson shall act as chairperson in the absence of the chairperson. In the absence of both the chairperson and the vice-chairperson, the members present may select a temporary chairperson.

(b) Executive Director and Staff. The commission will hire an executive director, staff, masters, and counsel, and such other personnel as necessary to for the effective performance of the commission's duties; and the exercise of its powers.

(c) Meetings.

(1) Meetings of the commission shall be held at the call of the chairperson or the written request of three members of the commission.

(2) The commission may conduct meetings by telephone conference call.

(d) Quorum. Four members must be present for the transaction of business by the commission. A final decision of the commission,

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other than a decision recommending discipline or retirement, must be supported by a majority of the members present. A final decision recommending discipline or retirement in any form must be supported by four members of the commission.

(e) Alternates. The chairperson will call upon an alternate member selected by the appropriate appointing authority to serve in the place of a member whenever a member is disabled, disqualified, or unable to serve. The chairperson shall announce when an alternate member is serving in the place of a commission member.

RULE 4. CONFIDENTIALITY OF PROCEEDINGS

(a) Generally. Except as otherwise provided in this rule, all papers filed with the commission are confidential and all qualification discipline or disability proceedings before the commission, a subcommittee, or a master will be conducted in executive session.

(b) Public Inspection of Recommendation. A commission recommendation of discipline or retirement, and the findings of fact and conclusions of law supporting the recommendation, shall be available for public inspection in the commission's office during regular business hours after the recommendation is filed with the Supreme Court. The record filed with the Supreme Court shall be made available for inspection in the commission office when the decision of the Supreme Court is final or at such earlier time as the record may be available for public inspection at the Supreme Court.

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(c) Release of Information. The commission may, with due consideration for the interests of the judge, make a public statement regarding a pending or completed proceeding which would otherwise be confidential in the following circumstances:

(1) If public statements that charges are pending before the commission are substantially unfair to a judge.

(2) If a judge is publicly associated with violating a rule of judicial conduct or with having a disability, and the commission, after a preliminary investigation or a formal hearing, has determined there is no basis for further proceedings or for a recommendation of discipline or retirement.

(3) If the commission, after a preliminary investigation or a formal hearing, has determined to conclude the proceeding with informal, agreed disposition pursuant to JQCR 19.

(4) If a formal hearing has been ordered in a proceeding in which the subject matter is generally known to the public and or in which there is broad public interest, and or in which confidence in the administration of justice is threatened due to misinformation or lack of information.

(d) Notice to Complainant. After final commission action on an allegation or complaint, the commission will disclose to the person making an allegation that after an investigation of the charges (i) the commission has found no basis for action by the commission against the judge, (ii) the commission has determined that the matter ~~should be or should have been resolved by an appeal~~ involved legal issues over which it has no jurisdiction, and

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involves no misconduct or disability, (iii) the commission has taken appropriate corrective action, or (iv) the commission has filed a recommendation with the Supreme Court for the ~~ensure, suspension, removal~~ discipline or retirement of the judge. The name of the judge, in the discretion of the commission, shall not be used in written communication to the complainant.

(e) Judge's Request for Release of Information. The commission may, in its discretion, release information concerning a pending or completed proceeding at the request of the judge who is the subject of the proceeding. A person who has been disciplined by commission action may disclose such fact.

(f) Release of Information to Bar Associations, Judicial Appointive Authority or Law Enforcement Agencies. The commission may, in its discretion, release information concerning a lawyer judge to the Washington State Bar Association, American Bar Association, a judicial authority, any judicial appointive, selection or confirmation authority, or concerning any judge to law enforcement agencies when required in the interests of justice, or to maintain confidence in the selection of judges or administration of the judiciary. The person to whom the information relates may, in the commission's discretion, be informed of the inquiry and information released.

(g) Public Proceedings. If the commission determines that the public interest in maintaining confidence in the judiciary and the integrity of the administration of justice so require, it may order that some or all aspects of the proceeding before the commission

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may be publicly conducted or otherwise reported or disclosed to the public. ~~The judge the subject of any hearing which may be made public will be given notice and an opportunity to be heard on the issue before the commission determines to make a hearing public.~~

(h) Contempt. Unless otherwise permitted by these rules, no person shall disclose information obtained by that person during commission proceedings or from papers filed with the commission. Any person giving information to the commission or any member or employee of the commission is subject to a proceeding for contempt in superior court for disclosing information in violation of this rule.

RULE 5. INITIAL PROCEEDINGS

(a) Allegations of Misconduct or Disability. Any organization, association, or person, including a member of the commission, may make an allegation of judicial misconduct or disability to the commission. An allegation may be made orally or in writing.

(b) Distinguished from Appeal. In the absence of grounds for recommending the discipline of a judge, the commission will not recommend the discipline of a judge for the exercise of discretion in making findings of fact, reaching a legal conclusion, or applying the law as the judge understands it. ~~Claims of error shall be considered only on appeal.~~

(c) Screening by Executive Director. Upon receipt of an allegation not obviously unfounded or frivolous, the executive director shall make a prompt, discreet, and confidential inquiry and evaluation. The executive director shall make a recommendation to

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the commission as to whether a preliminary investigation should be initiated on every allegation received.

(d) Commission Determination. If the commission determines at a meeting that a preliminary investigation should be initiated, the person making the allegation ~~will~~ may be requested to file a verified statement with the commission. If a verified statement is not filed by the person making the allegation, the executive director shall prepare and file a verified statement.

(e) Contents of Verified Statement. A verified statement requesting that the Commission investigate allegations must include facts showing that a judge may have violated a rule of judicial conduct or may be suffering a disability that seriously interferes with the performance of judicial duties and is or is likely to become permanent.

RULE 6. PRELIMINARY INVESTIGATION

(a) Conduct of Preliminary Investigation. If the commission orders a preliminary investigation, the executive director ~~and/or special investigator~~ will conduct supervise the investigation.

(b) Notification of Investigation. The judge who is the subject of a preliminary investigation will be notified by the commission within 7 days after the filing of a verified statement. The judge shall also be advised of the nature of the charge, and, in the discretion of the commission, the name of the individual making the verified statement, if any, or that the investigation is

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on the commission's own motion.

(c) Judge's Response. The judge shall be afforded a reasonable opportunity in the course of the preliminary investigation to present such matters as he or she may choose.

(d) Order for Medical Examination. If the preliminary investigation concerns a judge who may be suffering a possible physical and/or mental disability which may seriously impair the performance of judicial duties, the commission may order a judge to submit to physical and/or mental examinations at commission expense. The failure or refusal of a judge to submit to physical and/or mental examinations ordered by the commission may, in the discretion of the commission, preclude the judge from presenting the results of other physical and/or mental examinations on his or her own behalf. The commission may consider the failure or refusal to submit to physical and/or mental examinations as evidence that the judge has a disability that seriously interferes with the performance of judicial duties and is or is likely to become permanent.

(e) Result of Preliminary Investigation.

(1) If the commission determines at a meeting after a preliminary investigation that there are insufficient grounds for further commission proceedings, the judge and the person making the allegation will be so notified.

(2) If the commission determines at a meeting after a preliminary investigation that probable cause exists for believing that the judge has violated a rule of judicial conduct or that the judge may

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be suffering from a disability that seriously interferes with the performance of judicial duties and is or is likely to become permanent, the commission shall order the filing of a complaint pursuant to Rule 7 or may informally dispose of the matter pursuant to Rule 19.

(f) Stipulations. After a preliminary investigation and when prior approval is given by the commission, either the executive director or counsel retained by the commission may enter into a proposed stipulation of facts and/or discipline with the respondent judge. Such a stipulation may contain the imposition of terms and conditions and such other provisions as may appear appropriate. If a stipulation is not adopted by the commission, it shall be of no force and effect.

RULE 7. INITIATING FORMAL PROCEEDINGS

(a) Generally. The commission after a preliminary investigation may file a complaint alleging the violation of a rule of judicial conduct or the disability of a judge that is or is likely to become permanent. The complaint will be served on the judge within 7 days after filing of the complaint in the commission's office.

(b) Decision to File Complaint. When a complaint is filed, no further factual information shall be provided to the commission prior to a fact-finding hearing unless notice is given to both parties. The executive director will continue to assist commission counsel.

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(b) (c) Form of Complaint. The complaint will state in ordinary and concise language the basis for commission action and the facts supporting the complaint. The complaint shall also inform the judge that he or she may file a written answer to the charges as provided in paragraph (c): (d).

(c) (d) Answer. The judge may file with the commission an answer to the complaint. The answer must be filed within 14 days after service of the complaint on the judge. If the judge does not file a written answer, a general denial will be entered on behalf of the judge. The complaint and the answer shall be the only pleadings required.

RULE 8. SCHEDULING FACT-FINDING HEARING

A fact-finding hearing will be scheduled to take place within 42 days after the time for answer has expired or after the answer is filed. The executive director will set a time and place for the fact-finding hearing. The judge will be given at least 14 days notice of the fact-finding hearing. The notice will include the name or names of the fact-finder and the presiding officer, if any.

RULE 9. DISQUALIFICATION OF FACT-FINDER

(a) Disqualification of Member or Master. A member of the commission or a master must disqualify himself or herself in any proceedings involving his or her own conduct or alleged disability. A member of the commission or a master must disqualify himself or

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herself if he or she cannot impartially consider the complaint against a judge.

(b) Challenge for Cause. A judge may file an affidavit challenging for cause any member or a master who the judge believes will not impartially consider the complaint. The affidavit must be filed within 7 days after notice of the fact-finding hearing. The commission will decide any challenge for cause if the member does not disqualify himself or herself.

(c) Peremptory Challenge. A judge may file one peremptory challenge against one member of the commission. The challenge must be filed within 7 days after notice of a fact-finding hearing. If the judge has unsuccessfully challenged a member for cause, any peremptory challenge against that member must be filed within 3 days after service of notice of the determination of the challenge for cause.

RULE 10. PROCEDURAL RIGHTS OF JUDGE

(a) Generally. The judge has a right to notice of the allegations concerning the judge which have been found by the commission to warrant a preliminary investigation. The judge shall have the right and reasonable opportunity at a fact-finding hearing to defend against the allegations in the complaint by the introduction of evidence. The judge has the privilege against self-incrimination. The judge may be represented by counsel and may

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examine and cross-examine witnesses. The judge has the right to testify or not to testify on his or her own behalf. The judge has the right to

issuance of subpoenas for the attendance of witnesses to testify or produce evidentiary matters. The judge has the right to a prompt resolution of the allegations in the complaint.

(b) Compliance with Ethics Advisory Opinion. A judge's compliance with an opinion by the Ethics Advisory Committee shall be considered by the commission as evidence of good faith.

~~(b)~~ (c) Transcripts. The judge will be provided without cost a copy of any report of proceedings prepared by the commission. The judge may, in addition, have all or any portion of the testimony in the proceedings transcribed at his or her own expense.

(e) (d) Witness Fees. All witnesses shall receive fees and expenses in the amount allowed by law. Expenses of witnesses shall be borne by the party calling them, unless:

~~(1) Physical or mental disability of the judge is in issue, in which case the commission shall reimburse the judge for the reasonable expenses of the witnesses whose testimony related to the disability, or~~

~~(2) The judge is exonerated of the allegations, and the commission determines that the imposition of costs and expert witness fees would work a financial hardship or injustice upon the judge and orders that those fees be reimbursed.~~

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RULE 11. GUARDIANS AD LITEM

If it appears to the commission at any time during the proceedings that the judge is not competent to act, or if it has been previously judicially determined that the judge is not competent to act, the commission will appoint a guardian ad litem for the judge unless the judge already has a guardian who will represent the judge's interests. In the appointment of a guardian ad litem, consideration may be given to the wishes of the members of the judge's immediate family. The guardian or guardian ad litem may claim and exercise any right and privilege and make any defense for the judge which the judge could have claimed, exercised, or made if competent. Any notice to be served on the judge will also be served on the guardian or guardian ad litem.

RULE 12. DISCOVERY PROCEDURE BEFORE FACT-FINDING

(a) Request for Witnesses and Documents. Upon written demand of a party, the opposing party will disclose within 7 days thereof, with a continuing obligation thereafter, the following:

(1) names and addresses of all witnesses whose testimony that party expects to offer at the hearing;

(2) a brief summary of the expected testimony of each witness;

(3) copies of signed or recorded A party will give to the opposing party copies of all written statements of anticipated witnesses, and,

(4) copies of documents which may be offered, and transcripts of testimony of such witnesses in the party's possession which are

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relevant to the subject matter of the hearing and which have not previously been furnished. Witnesses or documents not disclosed may be precluded from testifying: excluded.

(b) Discovery. The taking of depositions, the requesting of admissions and all other procedures authorized by Rules 26 through 37 of the Superior Court Civil Rules are available upon stipulation of the parties or upon prior permission of the master or presiding officer. A request for discovery shall be granted, unless the master or presiding officer determines that the request is frivolous, will create an undue burden on the party, or will result in undue delay.

(c) Disclosure by Commission's Counsel. The commission's counsel shall disclose to the judge any material or information within his or her knowledge which tends to negate the allegations against the judge or mitigate the degree of discipline which may be imposed.

(d) Prehearing Motions. The judge or counsel for either party may make prehearing motions to the designated presiding officer, who may make rulings or defer rulings to the commission.

RULE 13. AMENDMENTS TO COMPLAINT OR ANSWER

The fact-finder, at any time prior to the conclusion of the hearing, or the commission, at any time prior to its decision, may allow or require amendments to the complaint or the answer. The complaint may be amended to conform to the proof or set forth additional facts, whether occurring before or after the commencement

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of the hearing. Except for amendments to conform to the proof at a fact-finding hearing, if an amendment substantially affects the nature of the charges, the judge will be given reasonable time to answer the amendment and prepare and present a defense against the new matter raised.

RULE 14. PROCEDURE AT FACT-FINDING HEARING

(a) Order of Presentation. The order of presentation shall be in the same manner as in civil cases in superior court.

(b) Commission Represented by Counsel. The case for the commission shall be presented by counsel retained by the commission.

(c) Rules of Evidence. The Rules of Evidence (ER) as applicable in civil proceedings shall govern the fact-finding hearing.

(d) Standard of Proof. ~~The fact-finder must find by clear, cogent, and convincing evidence.~~ Any finding that the judge has violated a rule of judicial conduct or that the judge has a disability which is or is likely to become permanent and which seriously interferes with the performance of judicial duties: must be supported by clear, cogent and convincing evidence.

(e) Presiding Officer. Unless the fact-finding hearing is before a master, the chairperson may appoint a member to be presiding officer or to rule on motions and objections made during the hearing. If the hearing is before the commission, a member may appeal a ruling to the commission members present. A majority vote will determine the motion.

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(f) Failure to Answer or Appear. The failure of a judge to answer or to appear at the hearing or to submit to a mental or physical examination required by the commission will not be sufficient in and of itself to constitute grounds for censure, suspension, removal, or retirement. ~~The failure may be considered with other evidence, unless it appears that such failure was due to circumstances beyond the judge's control: prevent the commission from proceeding.~~

(g) Verbatim Record. Unless the judge and the commission stipulate to a different record, a verbatim record will be made and kept of the fact-finding hearing. The commission shall determine whether the verbatim record will be by court reporter or electronic recording device.

RULE 15. REPORT OF FACT-FINDER

(a) When Fact-Finder Other Than Commission. The fact-finder, when other than the entire commission, shall prepare a report containing a brief statement of the procedure followed and the proposed findings of fact, conclusions of law, and a recommendation with respect to the issues presented at the fact-finding hearing. The report and verbatim record shall be filed in the commission office within 35 days after the hearing. The report and record shall be served on the parties within ~~21~~ 14 days thereafter, after the fact-finding hearing. The fact-finder may request the prevailing party to prepare the findings of fact and conclusions of law. The parties may stipulate to all or a portion of the report without the necessity of a hearing on the stipulated matters.

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(b) Objections. A party may file with the commission a statement of objections to the report of the fact-finder. The statement shall set forth all objections to the report and state reasons therefor. The objections must be filed with the commission and served on the opposing party within 14 days after service of the report on the party.

(c) No Objections Filed. If no statement of objections to the report of the fact-finder is filed within the time provided in paragraph (b), the report may be adopted without argument.

(d) Objections Filed. If a statement of objections is timely filed, the commission may schedule oral argument, or consider the matter on the record along with briefs of the parties. The parties shall be given at least 14 days written notice of the time and place for argument.

(e) Commission Modification. If the commission proposes to modify or reject the fact-finder's report, the commission shall schedule a time for oral argument on the record along with briefs of the parties. The parties shall be given at least 14 days written notice of the time and place for argument.

RULE 16. APPEARANCE BEFORE COMMISSION DECISION

(a) Objections. A party may file with the commission a statement of objections to the report of the fact-finder filed with the commission. The statement shall set forth all objections to the report and state reasons in opposition to the findings, conclusions, or recommendations made by the fact-finder. The objections must be

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days with the commission and served on the opposing party within 14 days after service of the report on the party.

(b) No Objections Filed. If no statement of objections to the report of the fact-finder is filed within the time provided in paragraph (a), or if the consent of the parties to the report of a subcommittee or master is filed, the report may be adopted by the commission without argument. The commission will determine what recommendations, if any, should be made to the Supreme Court based on the findings.

(c) Objections Filed. If a statement of objections is timely filed, or if the commission proposes to modify or reject the report of a subcommittee or master, the commission shall schedule a time for oral argument before the commission on the record before the fact-finder along with briefs of the parties. The parties shall be given at least 14 days written notice of the time and place for argument.

(a) Commission Sitting as Fact-Finder. When the commission serves as fact-finder, it will file a decision including findings of fact, conclusions of law, and a recommendation with respect to the issues presented at the fact-finding hearing. The prevailing party may be requested to prepare the findings of fact and conclusions of law. The commission's decision will be served upon the judge pursuant to JQCR 16(c). Any motions for reconsideration or objections shall be timely filed in accordance with JQCR 16(d)

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(b) Decision. Only upon the affirmative vote of at least four members will the commission recommend discipline or retirement of a judge or effect an informal disposition pursuant to JQCR 19. The commission's decision will include written findings of fact, conclusions of law, a recommendation and any record to be filed with the Supreme Court. The commission may adopt the report of the fact-finder, in whole or in part, by reference. To vote on a matter, a nonsitting member must consider the verbatim record and any report of a fact-finder. Any commission member may file a dissent.

(c) Notice to Judge. The commission's decision will be served upon the judge and his or her counsel of record within 14 days after the decision is filed in the commission's office.

(d) Motion for Reconsideration and Objections to Record. A party may file objections to the record or a motion for reconsideration of the commission decision within 14 days after the decision and record have been served. Objections will be determined by the chairperson or, in his or her discretion, by the commission.

(e) Finality of Decision. The commission decision is final 14 days after service unless a motion for reconsideration or objection is earlier filed. If a motion for reconsideration or objection is denied, the decision is then final. If either the motion for reconsideration or objection is granted, the reconsidered decision is final when filed in the commission's office.

(f) Notice of Commission Decision. When the decision is final, the commission will notify the person making the allegation of the general nature of its decision, in accordance with Rule 4(d).

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RULE 17. ADDITIONAL EVIDENCE

The commission may order a hearing for the taking of additional evidence at any time before its decision is final. The order will set the time and place of the hearing and will specify the matters on which the additional evidence is to be taken. A copy of the order shall be served upon the judge at least 14 days prior to the date set for hearing. The hearing will be conducted in the manner provided in Rules 8-16.

RULE 18. COMMISSION DECISION

(a) Recommendation. The commission will recommend the discipline or retirement of a judge only upon the affirmative vote of at least four members. A member must consider the verbatim record and the report of the fact-finder and be present at all relevant hearings before the commission in order to vote in a particular matter. If at least four members do not vote for the discipline or retirement of a judge, the complaint shall be dismissed. Any commission member may file a dissent.

(b) Decision. The commission's decision will include written findings of fact, conclusions of law, and a recommendation. The commission may adopt the report of the fact-finder, in whole or in part, by reference.

(c) Notice to Judge. The commission's decision will be served upon the judge and his or her counsel of record within 7 days after the decision is filed in the commission's office.

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(d) Motion for Reconsideration. A party may file a motion for reconsideration of the commission decision. The motion must be filed within 14 days after the decision has been filed in the commission's office.

(e) Finality of Decision. The commission decision is final 14 days after filing in the commission's office unless a motion for reconsideration is earlier filed. If a motion for reconsideration is denied, the decision is then final. If the motion for reconsideration is granted, the reconsidered decision is final when filed in the commission's office.

(f) Notice of Commission Decision. When the decision is final, the commission will notify the person making the allegation of the general nature of its decision, in accordance with Rule 4(d).

RULE 18. SUPREME COURT PROCEDURES

(a) Certification to Supreme Court. Within 14 days after the decision is final, a commission decision recommending the discipline or retirement of a judge will be filed in the Supreme Court and served on the judge. The notice of the decision served on the judge shall state the date the decision was filed in the Supreme Court and shall specify the period during which the judge may challenge the commission recommendation as provided in DRJ 2.

(b) Record for Supreme Court Review. The chairperson shall certify the record of commission proceedings to the Supreme Court, having transmitted to the judge those portions of the record required by DRJ 4.

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(c) Remand from the Supreme Court. If the Supreme Court remands a case to the commission, the chairperson shall assign the case to a fact-finder or the commission in accordance with the request of the Supreme Court.

RULE 19. INFORMAL DISPOSITION

An allegation of misconduct may be disposed of by a proposal to the judge for an admonition, admonishment or reprimand. The proposal will provide whether acceptance of the proposal may be considered as an admission of misconduct by the judge; and whether it may be made public. If the judge accepts the proposal in writing within 14 days after service of the proposal, a letter of admonition, admonishment or reprimand will be issued and no further action will be taken by the commission. If the judge accepts the proposal, the person making the allegation shall be notified that the matter has been resolved, in accordance with Rule 4(d). If the judge does not accept or fails to respond to the proposal, proceedings will continue.

RULE 20. SUPREME COURT PROCEDURES

(a) Certification to Supreme Court. Within 14 days after the decision is final, a commission decision recommending the discipline or retirement of a judge will be filed with the Supreme Court and served on a judge. The notice of the decision served on the judge shall state the date the decision was filed in the Supreme Court and shall specify the period during which the judge may challenge the commission recommendation as provided in Discipline Rules for Judges Rule 2.

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(b) Record for Supreme Court Review. The chairperson shall certify the record of commission proceedings and transmit to the judge those portions of the record required by Discipline Rules for Judges Rule 4.

(c) Objection to Record. Objections to the record of the commission proceedings must be filed in the commission's office within 14 days after service of the record. Objections will be determined by the chairperson, or in his or her discretion, the fact-finder. The record shall be filed in the Supreme Court and served on the judge within 14 days after the objection is filed with the commission, or in the absence of objection, within 14 days after the time for objection has expired.

(d) Remand from the Supreme Court. If the Supreme Court remands a case to the commission the chairperson shall assign the case to a fact-finder or the commission in accordance with the request of the Supreme Court.

~~RULE 20:~~ ~~20.~~ ~~[Reserved]~~ REINSTATEMENT OF ELIGIBILITY

A former judge whose eligibility for judicial office had been removed by the Supreme Court may file with the commission a petition for reinstatement of eligibility. Rules 4, 8 through 18 and 20 through 22 apply to commission review of a petition for reinstatement for eligibility. The commission will recommend to the Supreme Court in writing that the former judge should or should not be reinstated to eligibility to hold judicial office as provided in DRJ 11.

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~~RULE 21:~~ ~~21.~~ EXTENSION OF TIME

Upon a showing of good cause the chairperson or fact-finder may ~~en-~~large extend the time within which an act must be done under these rules.

~~RULE 22:~~ ~~22.~~ SERVICE

(a) Service on Judge. A complaint under Rule 7 shall be served on a judge in person, unless the judge cannot be found within the state. If the judge cannot be found, the complaint may be served by mail addressed to the judge's last known business and residence addresses. All other papers in commission proceedings may be served on a judge in person or by mail. If counsel has appeared for a judge, papers, other than a complaint, may be served on counsel in lieu of service upon the judge.

(b) Service on Commission. Service of papers on the commission shall be given by delivering or mailing the papers to the commission's office.

(c) When Service Accomplished. If service is by mail, a paper is timely served if mailed within the time permitted for service. If a paper is served by mail, a time period dependent on the service begins to run 3 days after the paper is mailed.

~~RULE 23:~~ ~~23.~~ RULE ADOPTION, AMENDMENT, OR REPEAL

~~(a) Generally. Any person may petition the commission requesting the adoption, amendment, or repeal of a commission rule. The commission may adopt, amend, or repeal a rule or any person may request such action by petition.~~

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(b) Petition. The petition must set out the proposed rule, or amendments to any existing rule, in full. The petition must also include reasons in support of the request.

(c) Commission Review. The executive director shall recommend to the commission whether to adopt, amend, or repeal a rule as requested in a petition. The chairperson may order a public hearing for further consideration of the petition. The commission will order the publication of the ~~proposal~~ any proposed rule modifications for public comment before taking final action to adopt, amend, or repeal a rule.

(d) Notice to Petitioner. The commission will notify the petitioner of its final action within a reasonable time after disposition of the petition.

Reviser's note: The typographical error in the above material occurred in the copy filed by the commission and appears herein pursuant to the requirements of RCW 34.08.040.

WSR 84-07-002

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 84-16—Filed March 8, 1984]

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

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 a harvestable surplus of adult pacific hake 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 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 March 8, 1984.

By Russell W. Cahill
Deputy
for William R. Wilkerson
Director

NEW SECTION

WAC 220-48-01500J PACIFIC WHITING TRAWL OPENING. Notwithstanding the provisions of WAC 220-48-015, WAC 220-48-017 and WAC 220-48-019, effective immediately:

(1) It is unlawful to take, fish for or possess Pacific whiting taken with bottom trawl, beam trawl, pelagic trawl or roller trawl from Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 24C.

(2) It is unlawful to take or fish for Pacific whiting taken with bottom trawl, beam trawl, pelagic trawl or roller trawl from Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 24B or 26A except on Mondays and Wednesdays from 6:00 a.m. to 6:00 p.m. each day, and unlawful to possess Pacific whiting taken from Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 24B or 26A except when taken legally as provided in this section.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-48-01500I PACIFIC WHITING TRAWL OPENING. (84-12)

WSR 84-07-003

PROPOSED RULES

DEPARTMENT OF PERSONNEL

(Personnel Board)

[Filed March 8, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning:

Amd	WAC 356-06-010	Definitions (seasonal career employees, seasonal career positions, temporary employment).
Amd	*WAC 356-18-070	Sick leave—Reporting—Payment.
Amd	WAC 356-18-090	Vacation leave—Accrual.
New	*WAC 356-30-065	Appointments—Temporary.
Amd	WAC 356-30-080	Temporary ((employment)) <u>appointments</u> —Exempt service.
Amd	WAC 356-30-130	Seasonal career employment;

that the agency will at 10:00 a.m., Thursday, April 12, 1984, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA 98504, 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 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 10, 1984.

This notice is connected to and continues the matter in Notice Nos. WSR *84-04-019 and 84-04-073 filed with the code reviser's office on *January 24, 1984, and February 1, 1984.

Dated: March 8, 1984

By: Leonard Nord
Secretary

WSR 84-07-004
EXECUTIVE ORDER
OFFICE OF THE GOVERNOR
[EO 84-04]

Establishing the Washington State Advisory Council on International Trade and Development

International trade is the most important feature of Washington State's growing economy. One out of every five jobs in our state is dependent on foreign trade. The primary industries of our state such as agriculture, aerospace, and other high technology manufacturing and service industries, as well as wood products and forestry, must increasingly rely on export markets for maintaining business and employment expansion. Washington State's economy will become more internationally oriented during this "Decade of the Pacific" when our close proximity to Asia's fastest growing markets emerges as a decided advantage. World trade is our future. Washington of the 21st Century is at the crossroads of a new global economic order. To achieve our full potential, it is necessary for Washington State to assess its strengths and weaknesses as a trading partner and to constantly seek to improve our state's international business climate.

It is the intent of the state of Washington to:

- (1) Promote the state's objectives of job creation and retention, continued and accelerated growth of the state's economy, and enhanced

economic well-being of the state's citizens and commerce;

- (2) Provide for private and public sector advice to the Governor and the legislature on international business policies development;
- (3) Ensure that the state pursue an international trade policy aimed at the mutual elimination of trade barriers with the state's trading partners;
- (4) Ensure the development of a superior, long-term state international trade strategy; and
- (5) Improve methods for the formulation of state international trade policy committed to the principles of free and fair trade among nations and states.

NOW, THEREFORE, I, John Spellman, Governor of the state of Washington, do hereby order that:

- I. There is established the Washington State Advisory Council on International Trade Development. The purpose of the Council is to marshal the collective expertise of its nineteen members in order to advise the state of those strategies and initiatives which will most effectively promote and encourage international business development by Washington State governments, private nonprofit development agencies, businesses, industry, agriculture, and citizens.
 - (A) The Council shall consist of voting members appointed by the Governor including but not limited to representatives from the following groups or fields: public ports; nonprofit international trade associations or nonprofit business associations; importers; exporters; businesses involved with international trade with fewer than fifty employees; businesses involved with international trade with more than fifty employees; international banking; labor; agriculture commodity groups; trading companies; custom house brokering and freight forwarding; corporate strategic planning; and institutions of higher education.
 - (B) Six members of the Council shall include:
 - (1) Two members of the House of Representatives, appointed by the Speaker of the House. One member shall be appointed from each caucus;
 - (2) Two members of the Senate, appointed by the President of the Senate. One member shall be appointed from each caucus;
 - (3) The Lieutenant Governor;

- (4) The Managing Director of the state Department of Commerce and Economic Development's International Business Development Division.
- (C) The Governor shall appoint the Chairman of the Council from the membership of the Council.
- II. In addition to the powers and duties set forth in Sections 4 and 5 of SSB 4494, the Council shall have the following responsibilities:
- (A) To provide international trade information and counsel to the Governor, state agencies, and the legislature by December 1, 1984, and more often, if necessary, on the status of international trade and business in Washington.
- (B) To identify for the Governor, affected state agencies, and the legislature current and long-term international trade issues which may require attention by the state.
- (C) Consult with appropriate public and private entities in the development of state policy alternatives which address and resolve current and long-term state international trade issues and international trade problems confronting the businesses, workers, and citizens of the state.
- (D) It is the responsibility of the Council to prepare and submit to the Governor and the legislature, by December 1, 1984, specific recommendations on the following topics:
- (1) Methods for most effectively coordinating all state international trade activities, including those carried on by the Department of Commerce and Economic Development, other state agencies, the Export Assistance Center, the Small Business Development Centers, university-based marketing centers, public ports, and agricultural commissions.
- (2) Methods of improving private-sector international trade advice to the Governor and the legislature on a regular and long-term basis;
- (3) Methods for most effectively promoting Washington products in both established and new international markets.
- (4) Options the state may lawfully exercise to reduce unreasonable and restrictive trade barriers placed on

Washington State and other trading countries, including ways to better affect United States government policy regarding foreign or domestic impediments to the trade of Washington's goods and services.

(5) The potential benefits of pursuing and encouraging the development of a Pacific Northwest regional trade policy.

(6) Methods for assisting small- and medium-size businesses which have the potential to develop international trade markets.

(7) The desirability of authorizing and maintaining certified export trading companies and those state policies which would encourage the development of private export management companies.

(8) Methods for better coordinating and improving state, Federal, local, and private international trade informational resources, both computerized and noncomputerized, in order to achieve the most effective state international trade planning, academic research, and private sector international trade marketing policy.

(9) Methods for attracting appropriate internationally derived investments to the state of Washington.

(10) Prioritization and identification for the Governor and the legislature of those current and long-term international trade issues and international trade problems confronting businesses, workers, and citizens of the state.

(11) The desirability of forming a permanent public or private entity for the review of long-term international trade issues.

- III In addition to the powers set forth in Section 6 of SSB 4494, the Council shall advise the Department of Commerce and Economic Development on the best methods for collecting, computing, distributing, and reporting of trade data and statistical information.
- IV. The Department of Commerce and Economic Development shall provide administrative and lead staff support for the Council as may be reasonably required.
- V. All executive agencies and departments of the state, including the Department of Commerce and Economic Development and Department of Agriculture, shall provide

such assistance as the Council may reasonably request.

- VI. The Council may hold such public meetings as it deems necessary.
- VII. The Council shall recommend to the Governor and to the Department of Commerce and Economic Development such programs and policies as may be necessary in order to increase employment and economic activity within the international business sectors of our state's economy and shall review the department's biennial program budget for international business development prior to its submission to the Governor and offer any comments it deems appropriate.
- VIII. This order shall expire on June 30, 1985, at which time the Council will terminate its activities unless otherwise authorized by law or executive order.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia this 7th day of March, A.D., Nineteen Hundred and Eighty-four.

John Spellman

Governor of Washington

BY THE GOVERNOR:

Ralph Munro

Secretary of State

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

WSR 84-07-005
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Commission for Vocational Rehabilitation)
 [Filed March 9, 1984]

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 490-500-055 Vocational rehabilitation—Notice to applicant.
- Amd WAC 490-500-420 Vocational rehabilitation—Maintenance;

that the agency will at 10:00 a.m., Wednesday, April 25, 1984, in the Third Floor Conference Room, H-19, Office Building #2, 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 May 2, 1984.

The authority under which these rules are proposed is RCW 74.29.025.

The specific statute these rules are intended to implement is chapter 74.29 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 25, 1984.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
 Division of Administration and Personnel
 Department of Social and Health Services
 Mailstop OB 14
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Phone (206) 753-7015, by April 11, 1984. The meeting site is in a location which is barrier free.

Dated: March 7, 1984

By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 490-500-055 and 490-500-420.

The Purpose of the Rule Changes: WAC 490-500-055, if the client is determined eligible for vocational rehabilitation services it is no longer necessary to send a written notification of eligibility. Verbal notification will suffice; and WAC 490-500-420, all money grants will be conditioned on economic need.

The Reasons for the Rule Changes: To save money. Eligibility letter is a duplication of work. If Section 420 is not amended every client who applies for services is eligible for maintenance without regard to economic need.

Statutory Authority: RCW 74.29.025.

Summary of the Rule Changes: WAC 490-500-055 deletes requirement to notify eligible client, in writing, of eligibility. WAC 490-500-420 makes financial need for maintenance more specific and prohibits providing services to clients that are "not eligible for services."

Person Responsible for the Drafting, Implementation and Enforcement of the Rule Changes: Leslie F. James, Director, Division of Vocational Rehabilitation, Mailstop: OB 21C, Telephone: 753-0293.

These rules are not necessary as a result of federal law, federal court decision or state court decision.

AMENDATORY SECTION (Amending Order 1050, filed 8/29/75)

WAC 490-500-055 NOTICE TO APPLICANT. (1) The individual shall be notified in writing of the action taken on ((eligibility or)) ineligibility.

(2) He shall be informed of the division's procedure for administrative review and fair hearings if he is dissatisfied with the division's decision.

(3) If the applicant was determined to be ineligible for vocational rehabilitation services, the certification shall specify in detail how he failed to meet the criteria of eligibility.

~~((4) If the applicant was determined to be eligible for vocational rehabilitation services, the notice shall specify the date of certification of eligibility:))~~

AMENDATORY SECTION (Amending Order 1050, filed 8/29/75)

WAC 490-500-420 VOCATIONAL REHABILITATION SERVICES—MAINTENANCE. (1) Maintenance services include the client's basic living expenses, such as food, housing, clothing and health care needs, and other subsistence expenses which are essential to enable him to receive full benefit from other vocational rehabilitation services.

(2) Maintenance services shall be provided to the extent necessary to enable a client to derive the full benefit of other vocational rehabilitation services.

(3) Maintenance may be provided at any time during the rehabilitation process, or following placement, until such time as the client has actually received remuneration for his employment, for a period not to exceed sixty days.

~~(4) ((Maintenance services provided in connection with diagnostic services shall be provided without regard to the economic need of the client.))~~ The provision of maintenance services ~~((in connection with any other type of service))~~ shall be conditioned on the economic need of the client.

WSR 84-07-006

ADOPTED RULES

**COMMISSION FOR
VOCATIONAL EDUCATION**

[Order 84-3, Resolution No. 83-61-9—Filed March 9, 1984]

Be it resolved by the Washington State Commission for Vocational Education, acting at the Seattle Opportunities Industrialization Center, Seattle, Washington, that it does adopt the annexed rules relating to chapter 21, Laws of 1983 1st ex. sess., Washington state job skills program.

This action is taken pursuant to Notice No. WSR 83-21-050 filed with the code reviser on October 13, 1983. 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 28C.04.420 which directs that the Commission for Vocational Education has authority to implement the provisions of the Washington state job skills program.

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 December 15, 1983.

By W. P. Mohler
Executive Director

Chapter 490-300 WAC
JOB SKILLS PROGRAM

NEW SECTION

WAC 490-300-010 AUTHORITY. These rules are promulgated pursuant to the Job Skills Program Act, chapter 21, Laws of 1983 1st ex. sess.

NEW SECTION

WAC 490-300-020 PURPOSES. The purposes of the Washington state job skills program (JSP) are to:

(1) Promote a productive and expanding economy in the state of Washington;

(2) Meet specific, identified employment needs of new and expanding business and industry;

(3) Increase employment opportunities for residents of the state; and

(4) Encourage the flow of business and industry support to educational institutions.

Financial support in the form of grants will be awarded eligible educational institutions which enter partnerships with private business and industry to develop or expand specific job skills training.

NEW SECTION

WAC 490-300-030 DEFINITIONS. The definitions set forth in this section include and supplement the definitions contained in the act and apply throughout these rules, unless the context clearly indicates to the contrary.

(1) "Applicant" means an educational institution which has made application for a job skills grant under the provisions of this act.

(2) "Business and industry" means a private corporation, institution, firm, person, group, or association concerned with commerce, trades, manufacturing, or the provision of services within the state or a public or non-profit hospital licensed by the department of social and health services.

(3) "Educational institution" means a public secondary or postsecondary institution or an independent institution within the state authorized by law to provide a program of skills training or education beyond the secondary school level. Any educational institution receiving a job skills grant under the provisions of this act shall be free of sectarian control or influence as set forth in Article IX, section 4 of the state Constitution.

(4) "Equipment" means tangible personal property which will further the objectives of the supported program and for which a definite value and evidence in support of the value have been provided by the donor.

(5) "Financial support" means any thing of value which is contributed by business and industry to an educational institution which is reasonably calculated to support directly the development and expansion of a particular program and which represents an addition to any financial support previously provided by the donor to such educational institutions. "Financial support" includes, but is not limited to, funds, equipment, facilities, faculty, and scholarships for matriculating students and trainees.

(6) "Job skills grant" means funding that is provided to an educational institution by the commission for the development or significant expansion of a program under provisions of this act.

(7) "Job skills program" means a program of skills training or education separate from and in addition to existing vocational education programs and which:

- (a) Provides short-term training which has been designated for specific industries;
 - (b) Provides training for prospective employees before a new plant opens or when existing industry expands; and
 - (c) Includes training or retraining for workers already employed by an existing industry or business where necessary to avoid dislocation or where upgrading of existing employees would create new vacancies for unemployed persons.
- (8) "Technical assistance" means professional and any other assistance provided by business and industry to an educational institution, which is reasonably calculated to support directly the development and expansion of a particular program and which represents an addition to any technical assistance previously or customarily provided to the educational institutions by the donor.
- (9) "Commission" or "commission for vocational education" means the commission for vocational education or any successor agency or organization.

NEW SECTION

WAC 490-300-040 PRIORITY FOR FUNDING. Priority for funding will be given programs which:

- (1) Serve areas with high concentrations of economically disadvantaged persons and high unemployment;
- (2) Serve areas with new and growing industries;
- (3) Serve areas where there is a shortage of skilled labor to meet job demands; or
- (4) Promote the location of new industry in areas affected by economic dislocation.

NEW SECTION

WAC 490-300-050 ELIGIBLE EDUCATIONAL INSTITUTIONS. The following are recognized as educational institutions eligible to receive grants under the job skills program:

- (1) Public four-year colleges or universities with degree-granting authority;
- (2) Community colleges;
- (3) Vocational-technical institutes;
- (4) Secondary vocational programs, including those in general and comprehensive high schools and in area vocational skills centers;
- (5) Apprenticeship trusts; and
- (6) Nonsectarian, private for profit or not-for-profit educational institutions offering programs beyond the secondary level, provided that such institutions are registered with the commission for vocational education or the council for postsecondary education under the Educational Services Registration Act (chapter 28B.05 RCW) or meet legal requirements for exemption from the act.

NEW SECTION

WAC 490-300-060 PRIVATE SECTOR PARTICIPATION. (1) Financial participation

Every dollar of job skills grant money must be matched by at least one dollar value of private sector contribution. In addition to cash, matching dollar values can be, but are not limited to, the current fair market

value of donated or loaned equipment, donated instructional time by company personnel, use of company facilities, and supplies and materials.

The private sector will be required to provide substantiating documentation regarding the value of such support and contributions.

(2) General participation

In addition to the required financial contribution, private sector participation is encouraged in all aspects of the training program, including but not limited to, the following activities:

- (a) Recruitment and selection of trainees;
- (b) Development of the training curriculum;
- (c) Implementation of the training program, through donation of instructors, equipment, materials and supplies, on-site training opportunities, internships, scholarships, etc.;
- (d) Monitoring and evaluation of the training program; and
- (e) Planning and participation in job development activities, job counseling, and actual job placement and hiring commitments.

NEW SECTION

WAC 490-300-070 RECRUITMENT AND SELECTION OF TRAINEES. Procedures for trainee recruitment and selection are as follows:

(1) Recruitment of trainees will be conducted by the employment security department (ESD) in cooperation with the cooperating educational institution and the participating business(es) or industry(ies).

(2) Final responsibility for selecting employees will rest with the participating business(es) or industry(ies).

(3) The business(es) or industry(ies) will determine the number of individuals to be trained for the available entry-level positions identified, allowing for reasonable attrition during the training period.

(4) The cooperating business(es) or industry(ies) and educational institution will establish criteria for trainees, including the acceptable level of basic education completed and the amount of previous work experience.

(5) Selection of current employees for retraining or advancement may be made by the business(es) or industry(ies) from among their current work force. In making such selections, the business(es) or industry(ies) must assure that:

- (a) The training will create new vacancies for unemployed persons; or
- (b) Training is necessary to avoid dislocation.

NEW SECTION

WAC 490-300-080 GRANT APPLICATION PROCEDURES—PROPOSED CONTENT. Grants will be made to eligible educational institutions based on proposals submitted to the commission for vocational education. Proposals must be submitted on an application form available from the commission for vocational education and shall contain the following information:

(1) Project need: Business(es) or industry(ies) to be served, why JSP funds are required, type of training

(entry-level, advanced retraining, or upgrading), evidence that supports employment needs, job titles and descriptions of needed staff, number of people to be trained, compensation levels for trainees upon successful completion of program;

(2) Objectives: Specific objectives for project, including whether training is for business(es) or industry(ies) seeking to relocate or to expand, for employee retraining as a result of industry dislocation, or upgrading where new entry-level jobs will result;

(3) Training plan: Location and length of program (not to exceed twelve months) instructional objective, qualifications of instructors, equipment and materials needed, and program timeliness;

(4) Trainee profile: Proposed training population by age, race, sex, previous employment and/or educational status, public assistance recipient, etc.; skills required for entry into program;

(5) Private sector program involvement: To what extent business(es) or industry(ies) are involved in the following: Recruitment and selection of trainees, development of training curriculum, conduct of program, instruction, monitoring, evaluation, job placement, hiring, financial support;

(6) Linkages: Cooperative efforts with other agencies that will make the program more successful and limit duplication of effort (employment security department, department of social and health services, service delivery areas, private industry councils, etc.), including support services available to trainees;

(7) Budget: Breakdown of estimated costs associated with project, including those for salaries, employee benefits, consumable supplies, contracted services, communications, travel, instructional materials and supplies, equipment rental and services, equipment purchases, facilities, indirect costs, and any other costs. The budget estimate should include the estimated total cost of the project, the amount of state funds requested, the amount of financial contribution expected from participating business and industry, and the amount of any other funds that may be made available for the project;

(8) Previous experience with similar training projects;

(9) Assurances:

(a) No trainee will be excluded from enrollment in the project due to race, color, national origin, sex, or handicap;

(b) The program is in accordance with legal requirements and regulations of state and local laws and in accordance with collective bargaining agreements, if applicable;

(c) Training facilities and equipment will meet Washington state health and safety standards;

(d) Licensed occupational programs are in compliance with licensure regulations; all instructors are qualified to provide the proposed training;

(e) The JSP grant will be used only to cover the costs associated with the program;

(f) Binding commitment for adequate reporting of information and data regarding the program to the commission, particularly information concerning recruitment and employment of trainees; agreement for periodic audit of the books of the educational institution directly

related to the program and right of access to financial and other records of the educational institution directly related to the program;

(g) Letter of commitment from the business(es) or industry(ies) regarding funding match, participation and cooperation, and employment of trainees; and

(h) Binding commitment to comply with monitoring and evaluation rules of the commission.

NEW SECTION

WAC 490-300-085 GRANT APPLICATION PROCEDURE—PROPOSAL REVIEW. (1) Proposals will be sent to the office of the state superintendent of public instruction and the state board for community college education for review and comment at the time of proposal submission. Comments shall be forwarded within two weeks to the proposal review committee for consideration.

(2) Proposals shall be reviewed based on the following criteria.

(a) Needs: Identified need addresses economic development goals. The project is separate from, in addition to, and not unnecessarily duplicative of existing programs. Provision has been made to use any available alternative funding from local, state, and federal sources;

(b) Other revenue sources: Provision has been made for use of existing federal and state resources for student financial assistance;

(c) Objectives: Objectives address identified need. Attainment of objectives will produce the desired outcomes;

(d) Training plan, activities: Activities can be accomplished within stated time frame, maximize uses of available resources, relate to stated objectives;

(e) Trainee profile: Provision has been made to work with the employment security department to identify and screen potential trainees to assure that wherever possible victims of economic dislocation and persons from minority and economically disadvantaged groups will be selected as program participants;

(f) Staffing: Staff members are clearly identified; duties described; supervision/administration is identified for both education and industry;

(g) Facilities: Adequate for achievement of objectives;

(h) Equipment: Each item is justified and necessary; equipment expenditures are necessary for program success;

(i) Private sector participation: Financial contribution at least equal to JSP funds requested; involved in all aspects of program;

(j) Linkages, consultation: Each agency's role is identified; interagency cooperation is described; resources are identified;

(k) Budget: Costs are adequately itemized and reasonable for proposed activities;

(l) Experience: Applicant has had previous related experience with similar training programs;

(m) Assurances: All required assurances are provided and documented where necessary; and

(n) Cost effectiveness.

NEW SECTION

WAC 490-300-090 JSP PROPOSAL REVIEW COMMITTEE. The JSP review committee shall review proposals and make recommendations for funding to the commission. The review committee will be comprised of one representative from each of the following:

- (1) Commission for vocational education (CVE);
- (2) Employment security department (ESD);
- (3) Department of commerce and economic development (CED);
- (4) Apprenticeship division, department of labor and industries;
- (5) Business and industry, to be appointed by the executive director of the commission; and
- (6) Labor, to be appointed by the executive director of the commission.

If appointees (1) through (6) do not include a woman and a minority person, the executive director of the commission is authorized to make additional appointment(s) to ensure such representation.

NEW SECTION

WAC 490-300-100 NOTIFICATION OF PROJECT APPROVAL. Whenever a job skills program grant is approved, the commission shall notify the employment security department (ESD). The notification to the ESD shall indicate the following:

- (1) The trade, occupation, or profession for which participants will be trained;
- (2) Description of the curriculum;
- (3) Requirements for participation and procedures for making application;
- (4) Duration of the program;
- (5) Description of the support services available to participants; and
- (6) Any other information relevant to encouraging and facilitating the participation in the program of those in economic need.

NEW SECTION

WAC 490-300-110 RESPONSIBILITIES OF THE EMPLOYMENT SECURITY DEPARTMENT. The employment security department shall for the purposes of the job skills program:

- (1) Work cooperatively with educational institutions providing job skills training programs to identify and screen potential trainees and students;
- (2) Perform labor market analyses designed to assure the availability of suitable trainees and students; and
- (3) Identify areas with high concentrations of economically disadvantaged persons and high unemployment.

NEW SECTION

WAC 490-300-120 RESPONSIBILITIES OF THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT. The department of commerce and economic development shall for the purposes of the job skills program:

(1) Work cooperatively with the commission for vocational education to market the job skills program to business and industry and to economic development agencies and other firms;

(2) Recruit business and industry from outside the state to participate in the job skills program; and

(3) Refer business and industry interested in developing a job skills training program to the commission for vocational education.

WSR 84-07-007**ADOPTED RULES****COMMISSION FOR VOCATIONAL EDUCATION**

[Order 84-4, Resolution No. 83-41-4—Filed March 9, 1984]

Be it resolved by the Washington State Commission for Vocational Education, acting at the Seattle Opportunities Industrialization Center, Seattle, Washington, that it does adopt the annexed rules relating to chapter 266, Laws of 1983, educational services registration.

This action is taken pursuant to Notice No. WSR 83-21-051 filed with the code reviser on October 13, 1983. 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 28B.05 RCW and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 28B.05.050(3) which directs that the Commission for Vocational Education has authority to implement the provisions of the Educational Services Registration Act.

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 December 15, 1983.

By W. P. Mohler
Executive Director

AMENDATORY SECTION (Amending Order 80-3, Resolution 80-42-2, filed 10/9/80)

WAC 490-600-045 EXEMPTIONS. Organizations and institutions claiming exemption under the provisions of (~~section 4, chapter 188, Laws of 1979 1st ex. sess. [(RCW 28B.05.040), as now or hereafter amended.]~~) RCW 28B.05.040, as now or hereafter amended, shall meet the following additional provisions:

(1) To be considered exempt under the act, charitable organizations must be recognized by the United States Internal Revenue Service as being exempt under Section 501(c)(3) of the Internal Revenue Code as charitable organizations.

(2) Educational institutions that are candidates for accreditation or are on probation concerning their accreditation status are not considered eligible for exemption under the provision of (~~section 4(5), chapter 188,~~

~~Laws of 1979 1st ex. sess. [(RCW 28B.05.040(5))]
RCW 28B.05.040.~~

(3) Educational institutions exempted as accredited shall, not later than January 31 of each calendar year, notify the commission of its operating in the state of Washington and shall furnish the commission with one copy of its current catalog.

(4) Educational institutions requesting exemption under the hardship provision of ~~((section 13, chapter 188, Laws of 1979 1st ex. sess. [(RCW 28B.05.130))])~~ RCW 28B.05.130 shall make a request in writing which shall include:

(a) Name, address and telephone number of the institution,

(b) Name, title, address and telephone number of the chief administrative officer,

(c) Reference to the specific section or subsection for which the exemption is requested, and

(d) Statements and related probative documents which clearly identify the nature of the hardship and the institution's inability to meet the requirements of the section or subsection of the act or of this rule and for which the exemption is requested, together with substantiation that such exemption will not unnecessarily frustrate the purposes of the act or of this rule.

(5) Institutions offering instruction on federal installations solely to personnel employed by the Federal government, and their dependents, shall not be required to have separate institutional accreditation in order to qualify for exemption.

(6) Institutions not otherwise exempt that are of a religious character, but only as to those educational programs exclusively devoted to religious or theological objectives, and that are represented in an accurate manner in institutional catalogs or other official publications.

(a) The executive director shall ask the chief administrative office of any institution that may qualify for an exemption on religious grounds to forward to the Commission office a copy of the institution's catalog and/or any other official publications that describes the nature of the institution and its programs. This information shall be used to verify the exempt status of the institution.

(b) For purposes of this subsection, "education programs exclusively devoted to religious or theological objectives" shall mean a program that has as its sole stated objective training in the religious beliefs of the controlling religious organization and/or preparation of students for occupations that are primarily church related.

(c) In the case of an institution that offers both religious and secular programs of instruction, the requirements of ~~((RCW))~~ chapter 28B.05 RCW and ~~((WAC))~~ chapter 490-600 WAC shall pertain only to the secular programs of the institution.

(d) If the executive director has reasonable cause to believe that the religious or theological programs offered by a religious institution are not represented in a materially accurate manner in the institution's catalog and/or other official publications the executive director shall proceed in accordance with the provisions of WAC 490-600-075.

(7) Educational institutions that are certified by the Federal Aviation Administration under 14 CFR 141 and those educational institutions certified under CFR 61 which offer instruction solely for avocational or recreational purposes.

(a) The executive director shall ask the chief administrative officer of any institution that is certified by the Federal Aviation Administration under 14 CFR 141 to provide evidence of current certification in order to verify the exempt status of the institution.

(b) Flight schools certified by the Federal Aviation Administration under 14 CFR 141 that collect payment(s) in advance for any flight training shall prepare and execute with each student paying in advance a contract containing at least:

(i) A description of the services to be rendered;

(ii) The terms under which the payments are to be made, and,

(iii) The terms of an equitable policy governing the refund of unused tuition charges that will occur in the event the student withdraws or is discontinued from training prior to completion of the contracted service.

To be considered exempt under the act, such schools shall submit to the commission for its approval a copy of such contract form together with notification to the commission of its operating in the state of Washington. Initial notification shall be made in the instance of existing schools by no later than July 1, 1980 or in the instance of new schools in no less than 15 days prior to the commencement of its operation. In any instance, such notification and submission of document(s) shall occur annually not later than January 31 of each calendar year.

(c) Flight schools certified by the Federal Aviation Administration under 14 CFR 61 to be considered for exemption on the basis of offering instruction solely for avocational or recreational purposes must submit documentation supporting such a sole intent.

(8) Workshops or seminars lasting no longer than three calendar days for which academic credit is not awarded.

(9) Continuing education courses approved under chapters 18.04 (board of accountancy), 18.78 (department of licensing, practical nursing), 18.88 (department of licensing, registered nursing), or 48.17 (office of the insurance commissioner) RCW for licensure.

AMENDATORY SECTION (Amending Order 81-3, Resolution 81-47-3, filed 10/8/81)

WAC 490-600-071 MINIMUM CANCELLATION AND REFUND POLICY. The intent of the minimum cancellation and refund policy is to see that each applicant/student is assured minimum conditions of refund, and that the school will be assured of its integrity if it meets these minima. Many schools, however, have more liberal practices and the commission encourages such practices.

The school must state its policy and schedule of refunds in clear language that can be easily understood. The policy must apply to all terminations, for any reason, by either party.

(1) General application of cancellation and refund policies.

(a) Termination date.

(i) Residential schools. The termination date for resident schools for refund computation purposes is the last date of actual attendance by the student. The school may require notice of cancellation or withdrawal to be given by certified mail provided this requirement is stated in the enrollment agreement. The school may require that notice be made by parent or guardian if the student is below legal age.

If a student fails, without written explanation to proper institutional authorities, to attend classes for a period of thirty days during which resident classes are in session, the institution shall officially terminate the student from the program or course of instruction, notify the student in writing that enrollment has been terminated effective the thirtieth calendar day, and shall refund tuition and fees according to its published refund policy.

(ii) Correspondence schools. The termination date for correspondence schools shall be based upon the last lesson completed by the student providing that the student notifies the institution of the desire to cancel within sixty days after submitting the last lesson. The school may require notice of cancellation or withdrawal to be given by certified mail, provided this requirement is stated in the enrollment agreement.

(iii) Seminars and workshops not exempted under WAC 490-600-045(8). The termination date for seminars or workshops shall be based upon written notification from the student and received by the institution prior to the opening hour of the seminar or workshop. The seminar or workshop may require notice of cancellation or withdrawal to be given by certified mail provided this requirement is stated in the enrollment agreement.

(b) Extra expenses. Items of extra expense to the student, such as housing, board, instructional supplies or equipment, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other extra charges for which the student has contracted or paid in advance need not be considered in tuition refund computations provided they are separately shown in the enrollment agreement, catalog, or in other published data furnished to the student before enrollment, and provided further that the student received the complete materials or services during the period the student was actually enrolled. When items of major extra expense are separately shown for this purpose the school must also state its policy for reasonable settlement of such charges in the event of early termination of the student and in no event shall the charges be more than the actual value of the materials or services used by the student.

(c) Subject to subsection (d) below, if promissory notes or contracts for tuition are sold or discounted to third parties, students or their financial sponsors must sign a statement authorizing such sales, and the school must comply with its cancellation and refund policy. Schools must notify all third parties of the cancellation and refund policy of the school.

(d) Institutions shall modify a student's contract and provide a pro rata refund to the student for any action

that reduces contracted training time, which reduces course content, or other actions which adversely affect the training time or course content. The burden of proof that such changes did not adversely affect the student rests with the school if any dispute arises over a failure to apply such pro rata refund.

(e) A school year for residential schools is defined by the period of time that the required learning experiences are fully available to the student. The definition of a "school year" must be established by residential schools for refund computation purposes and be published in the school's catalog.

(i) For courses longer than one school year in length, the cancellation and refund policy shall apply to the stated course price attributable to each school year.

(ii) All of the stated course price attributable to the period beyond the first year will be refunded when the student terminates during the first year.

(iii) Percentage of course completion shall be computed on the basis of the amount of time in the course as expressed in clock, quarter, or semester hours or other academic periods as listed in the catalog.

(f) Upon cancellation or termination, all money due the student shall be refunded within thirty days.

(2) Refund policy: Resident schools. Details of the educational institution's own definite and established refund policy for cancellations and terminations must, as a minimum, comply with the following requirements:

(a) Rejection. An applicant rejected by the school shall be entitled to a refund of all moneys paid, less any standard application fee, not to exceed twenty-five dollars.

(b) Three-day cancellation. All moneys paid by an applicant will be refunded if requested within three business days after signing an enrollment agreement and making an initial payment.

(c) Other cancellation. Any applicant subsequently requesting cancellation, but before entering school and starting the course, shall be entitled to a refund of all moneys paid minus a fee of ten percent of the contract price of the course, but in no event may the school retain more than one hundred dollars.

(d) Initial participation. For a student terminating training after entering school and starting the course of training but within the first week, or first ten percent of the program, whichever is less, the tuition charges made by the school shall not exceed ten percent of the contract price of the course plus the registration fee not to exceed one hundred dollars, but in no event more than three hundred dollars.

(e) After first week or ten percent of the program. For a student terminating training after completing one week, or ten percent of the program, whichever is less, but within the first twenty-five percent of the course, the tuition charges made by the school shall not exceed twenty-five percent of the contract price of the course plus a registration fee not to exceed one hundred dollars.

(f) After twenty-five percent. For a student terminating training after completing twenty-five percent but less than fifty percent of the course, the tuition charges made by the school shall not exceed fifty percent of the

contract price of the course plus the registration fee of not more than one hundred dollars, and thereafter,

(g) The institution may retain one hundred percent of the stated tuition plus the registration fee which may not exceed one hundred dollars.

(h) Special cases. In case of student prolonged illness or accident, death in the family, or other circumstances that make it impractical to complete the course, the school shall make a settlement which is reasonable and fair to both.

(3) Refund policy: Correspondence and/or home study schools. Details of the educational institution's own definite and established refund policy for cancellations and terminations must, as a minimum, comply with the following requirements.

(a) An enrollment may be canceled by an applicant student within three days from the day on which the enrollment agreement is signed. An applicant student requesting cancellation within this time shall be given a refund of all money paid to the school or its representatives.

(b) From three days after the day on which the enrollment agreement is signed and until the time the school receives the first completed lesson assignment from the student, upon cancellation, the school is entitled to the registration fee of either twenty-five dollars or fifteen percent of the tuition whichever is less.

(c) After receipt of the first completed lesson assignment, if the student requests cancellation, the school shall be entitled to a tuition charge which shall not exceed the following:

(i) Up to and including the first ten percent of the course, the registration fee plus ten percent of the tuition.

(ii) After completing ten percent of the course and up to and including the completion of twenty-five percent of the course, the registration fee plus twenty-five percent of the tuition.

(iii) After completing twenty-five percent of the course and up to and including completion of fifty percent of the course, the registration fee plus fifty percent of the tuition.

(iv) If the student completes more than half of the course, the full tuition.

(d) The amount of the course completed shall be the number of completed lesson assignments received by the institution as a percentage of the total lesson assignments in the course.

(e) The refund policy shall pertain to all charges with the exception of charges for materials that are not returned to the institution in their original condition within fifteen days of withdrawal or termination.

(4) Refund policy: Seminars and workshops not exempted under WAC 490-600-045(8). Details of the educational institution's own definite and established refund policy for cancellations and terminations must, as a minimum, comply with the following requirements:

(a) Rejection. An applicant rejected by the institution prior to the initial class shall be entitled to a refund of all moneys paid.

(b) Three-day cancellation. All moneys paid by an applicant in advance shall be refunded if written notification is received by the institution within three calendar days of initial payment and providing the notification is received at least five calendar days prior to the scheduled seminar or workshop.

(c) Other cancellation. An applicant requesting cancellation within five calendar days of the scheduled seminar or workshop but before the initial session shall be entitled to a refund of all moneys paid minus a fee of ten percent of the contract price plus any pre-identified charges for parking and/or meals, but in no event may the school retain more than one hundred dollars.

(d) The applicant shall not be entitled to any refund after the scheduled seminar or workshop has opened its initial session.

WSR 84-07-008
PROPOSED RULES
MUNICIPALITY OF
METROPOLITAN SEATTLE

[Filed March 9, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Municipality of Metropolitan Seattle intends to adopt, amend, or repeal rules concerning chapter 330-01 WAC, public hearings procedures on the design and location of mass rapid transit systems under RCW 35.58.273;

that the agency will at 3:00, Thursday, March 15, 1984, in the King County Administration Building, Room 854, 500 Fourth Avenue, Seattle, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 15, 1984.

This notice is connected to and continues the matter in Notice No. WSR 84-03-041 filed with the code reviser's office on January 17, 1984. Continuance of this action to March 15, 1984, was announced at the council meeting on March 1, 1984.

Dated: March 6, 1984

By: Maureen Varni

Clerk of the Council

WSR 84-07-009
ATTORNEY GENERAL OPINION
Cite as: AGO 1984 No. 10
[March 8, 1984]

OFFICES AND OFFICERS—STATE—AUDITOR—MUNICIPAL CORPORATIONS—AUTHORITY TO AUDIT ECONOMIC DEVELOPMENT COUNCILS

Economic development councils created in response to (but not pursuant to) RCW 35A.11.060, RCW 35.21-.680 or RCW 36.32.410 are not, themselves, municipal corporations or quasi-corporations for the purposes of audit under RCW 43.09.260; however, the State Auditor would nevertheless have the authority to examine the

books and records of an economic development council (or any similarly situated private party) as an extension of his authority to audit those municipal corporations or quasi-municipal corporations which have provided funds to such organizations.

Requested by:

Honorable Robert V. Graham
State Auditor
Legislative Building
Olympia, Washington 98504

WSR 84-07-010
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed March 12, 1984]

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 this notice proposes to amend chapter 296-46 WAC, safety standards, installing electric wires and equipment, and administrative rules. WAC 296-46-110, foreword is being amended to adopt the 1984 edition of the National Electrical Code; notice is being given of a location change from Olympia to Seattle; WAC 296-46-130, classification of occupancies is being amended to clarify classification of occupancies; WAC 296-46-140, plan review for educational and health care facilities and other buildings is being amended to clarify classifications and to update the location where plans can be reviewed and to delete the fee structure from this section; WAC 296-46-150, wiring methods for places of assembly is being amended to comply with the National Electrical Code except for the wiring methods in Section 518-3 Ex-1; WAC 296-46-160, service requirements is being amended to comply with the National Electrical Code. Proposed amended wording also includes "related equipment" which will aid the serving utility; WAC 296-46-180, meter installation is being amended to add the wording "Secondary instrument transformer conductors for metering shall not be permitted in the service raceway." This change will be an added safety factor; WAC 296-46-200, service entrance conductors is being amended to clarify the use and requirements for unfused service entrance conductors; WAC 296-46-220, service equipment is being amended to upgrade safety precautions and to clarify this section; WAC 296-46-240, service mast is being amended to clarify the verbiage and appropriately add the word "shall"; WAC 296-46-336, recessed incandescent fixtures is being adopted to clarify safe methods for installation and to set standards for suitable fixtures for use within the thermal insulation; WAC 296-46-350, emergency systems is being amended to comply with the National Electrical Code; WAC 296-46-360, carnivals, circuses, and traveling shows is being amended to add the terms "and shall use

type" and "for each concession or ride", for clarification; WAC 296-46-370, boat moorages and similar installations is being amended to simplify the location of a disconnect. The section is also being amended to conform with the National Electrical Code; WAC 296-46-420, electrical equipment grounding is being amended to conform with the National Electrical Code and to simplify electrical inspections; WAC 296-46-480, location of pad-mounted transformers is being amended to conform with the National Electrical Code and to correct and eliminate verbiage; WAC 296-46-490, location of total underground transformers is being amended to add the word "oil-filled" regarding the type of underground transformer. All of the following sections are being repealed to avoid conflict or redundancy because of the proposed adoption of the National Electrical Code: WAC 296-46-120 workmanship; 296-46-170 clearance of service drop for single family or duplex residences; 296-46-190 current transformers; 296-46-210 service entrance cable; 296-46-230 service entrance; 296-46-242 transformers neutral grounding; 296-46-244 utility conductor limitations; 296-46-270 metallic plumbing lines; 296-46-280 garbage disposal, waste disposal or waste compactor appliances, and dishwasher circuits; 296-46-290 range circuit; 296-46-300 water heaters; 296-46-335 unfinished areas; 296-46-355 mobile home connections; 296-46-380 rockcrushers; 296-46-390 woodworking plants; 296-46-424 residential occupancies, ground fault circuit interrupters; 296-46-426 bonding agricultural structures and equipment; and 296-46-495 safe wiring labels and fees. All of the following sections are being repealed to comply with chapter 19.28 RCW: WAC 296-46-500 electrical advisory board; 296-46-501 board of electrical examiners; 296-46-535 appearance and practice before advisory board; 296-46-540 solicitation of business unethical; 296-46-545 standards of ethical conduct; 296-46-550 appearance by former employee; 296-46-555 former employee as expert witness; 296-46-560 computation of time; and 296-46-565 Administrative Procedure Act. The following rules are being repealed because they are adequately covered in the 1984 edition of the National Electrical Code: WAC 296-46-590 electric heating; 296-46-59005 Appendix A—Residential heat loss tables; 296-46-59010 Appendix B—Outdoor design temperatures; 296-46-900 Appendix C—Drawing E-103; and 296-46-905 Appendix D—Drawing E-104;

that the agency will at 9:30 a.m., Tuesday, April 24, 1984, in the Director's Conference Room, General Administration Building, 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 May 24, 1984.

The authority under which these rules are proposed is RCW 19.28.010 and 19.28.060.

The specific statute these rules are intended to implement is RCW 19.28.010 and 19.28.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 24, 1984.

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Robert C. Cronkrite, Administrator
Electrical Inspection, Plumber Certification
and Contractor Registration Sections
300 West Harrison, Room #509
Seattle, Washington 98119
(206) 281-5573

Dated: March 7, 1984

By: Sam Kinville
Director

STATEMENT OF PURPOSE

Title and Number of Rule Sections or Chapters: See above.

Statutory Authority: RCW 19.28.010 and 19.28.060.

Specific Statute that Rules are Intended to Implement: RCW 19.28.010 and 19.28.060.

Summary of Rules: See above.

The Reasons Supporting the Proposed Rule Changes: To adopt the 1984 edition of the National Electrical Code; to clarify classification of occupancies; to clarify meter installations; to upgrade safety precautions; and to repeal redundant sections that are being superseded by the adoption of the 1984 edition of the National Electrical Code.

The Person Responsible for the Drafting, Implementation and Enforcement of the Rules: Robert C. Cronkrite, Administrator, Electrical Inspection, Plumber Certification and Contractor Registration Sections, 300 West Harrison, Room #509, Seattle, Washington 98119, (206) 281-5573.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rules: Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rules: There will be no fiscal impact on the public by these rules.

The rules are 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 Rules or Their Purposes: None.

A small business impact statement is not required because the rules do not have a negative fiscal impact.

AMENDATORY SECTION (Amending Order 81-5, filed 2/27/81, effective 4/1/81)

WAC 296-46-110 FOREWORD. ((These rules and regulations are issued by the Electrical Inspection Section of the Department of

Labor and Industries under the authority of chapter 19.28 RCW, Electrical Installations Law. The department is empowered by law to enforce these rules and regulations and the National Electrical Code.))

The ((1984)) 1984 edition((:)) of the National Electrical Code((:)) is hereby adopted by reference as part of ((these rules and regulations)) this chapter. ((The rules and regulations are adopted for the safety of the public and are to be used in connection with the 1981 edition of the National Electrical Code.)) Other codes, manuals, and reference works referred to in this ((code will be)) chapter are available for inspection and review in the Seattle office of the electrical ((Inspection)) section of the ((Division of Building and Construction Safety Inspection Services, Olympia)) department during business hours. Where there is any conflict between ((the rules and regulations)) a specific rule, this chapter and the National Electrical Code, ((the rules and regulations)) the specific rule shall be observed.

Electrical inspectors will give information as to the meaning or application of the National Electrical Code and ((these rules and regulations)) this chapter, but will not lay out work or act as consultants for contractors, owners, or users.

((A copy of chapter 19.28 RCW, Electrical Installations Law, may be obtained from the Department of Labor and Industries.))

AMENDATORY SECTION (Amending Order 81-5, filed 2/27/81, effective 4/1/81)

WAC 296-46-130 CLASSIFICATION OF OCCUPANCIES. (1) Educational occupancy ((means)) refers to a building or ((that)) portion ((thereof)) of a building used primarily for educational purposes and shall include buildings used for the gathering of groups of six or more persons for purposes of instruction. Educational occupancy includes, but is not restricted to: Schools, colleges, academies, and universities.

(2) Institutional occupancy ((means)) refers to a building or ((that)) portion ((thereof where persons are harbored to receive care and are incapable of self-preservation or unable to provide for their own needs and safety without assistance of another person)) of a building used primarily for detention and correctional occupancies where some degree of restraint or security is required. Such occupancies shall include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

(3) Health care occupancy ((refers to hospitals, nursing homes, psychiatric hospitals, alcoholism hospitals, alcoholism detoxification facilities, residential treatment facilities for psychiatrically impaired children and youth and such other health care occupancies)), in addition to the health care facilities defined in the 1984 National Electrical Code in Article 517-2, shall also include, but is not restricted to the following: Ambulatory surgeries, alcoholism hospitals, alcoholism detoxification facilities, residential treatment facilities for psychiatrically impaired children and youth, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated. ((See the National Electrical Code, Section 517-2 for the definition of health care facilities.))

AMENDATORY SECTION (Amending Order 81-5, filed 2/27/81, effective 4/1/81)

WAC 296-46-140 PLAN REVIEW FOR EDUCATIONAL((:)) AND HEALTH CARE FACILITIES AND OTHER BUILDINGS.

(1) All plans for new or altered electrical installations in educational, institutional, and health care occupancies shall be reviewed and ((accepted)) approved by the ((State Electrical Inspection Section prior to beginning such)) department before the installations are begun. Refer plans for review to the Electrical ((Division, 1616 B, Northeast 150th, Seattle, WA 98155)) Inspection Section, Department of Labor and Industries, 520 South Water Street, Olympia, Washington 98504. Please refer to WAC 296-46-910 for required fees for plan review.

(2) Plan(s) review for new or altered electrical installations ((in health care occupancies and other facilities which are required to submit plans for new construction for review by the Construction Review Unit, State Department of Social and Health Services, are to be sent directly to that unit where they will be reviewed by the Department of Labor and Industries, Electrical Division.

(3) Charges for plan review of educational type buildings not including installations reviewed under subsection (2) of this section, will be based upon twenty percent of the job label fee as determined by

~~WAC 296-46-495, plus a fee of twenty-five dollars. Review fee shall be due at time of plan submittal.~~

~~((4) Plan review for new or altered electrical installations of other types of construction may be voluntarily requested by the owner or other interested parties. The fee for such review service will be based upon an hourly rate of \$30.00 per hour or major fraction thereof)) of other types of construction may be voluntarily requested by the owner or other interested parties.~~

AMENDATORY SECTION (Amending Order 81-5, filed 2/27/81, effective 4/1/81)

~~WAC 296-46-150 WIRING METHODS FOR ((DESIGNATED BUILDING OCCUPANCIES)) PLACES OF ASSEMBLY. ((The fixed)) Wiring methods for institutional, educational, and health care ((occupancies shall be metal raceway, nonmetallic raceways encased in not less than two inches of concrete, M.I. or M.C. cable.~~

~~EXCEPTION No. 1— For signal and control circuits, open cable wiring approved for the purpose shall be permitted for Class 2 signal and control circuits as defined in Article 725 of the National Electrical Code for other than the following circuits and/or systems; nurse call systems; fire alarm systems actuated at manual stations; electric water flow alarm devices in connection with sprinkler systems; automatic fire or smoke or products of combustion devices; alarms required for systems used in the piping of nonflammable medical gases and communications systems used for issuing instructions during emergency conditions.~~

~~EXCEPTION No. 2— Open cable wiring approved for the purpose of (NFPA Bulletin No. 71) shall be permitted for Central Station Protective Systems installed and operator manned and supervised in accordance with the latest adopted edition of the National Fire Protection Association Bulletin No. 71 in other than hospitals and nursing homes.~~

~~EXCEPTION No. 3— Clinics, dental and medical offices and like occupancies except in patient care areas.~~

~~((2) Buildings to be licensed as boarding homes, alcoholism treatment facilities (other than alcoholism hospitals and alcoholism detoxification facilities); or birthing centers shall provide a safe electrical environment. A Certificate of Electrical Inspection shall be obtained prior to occupancy.~~

~~Buildings of such use that are more than two stories in height or have more than 3,000 square feet of floor area above the first story shall be wired in metallic raceway.~~

~~((3) Other buildings. The fixed wiring method in the following building occupancies shall be busways, metal raceways, nonmetallic raceways encased in not less than two inches of concrete, cable trays or types SNM, TC, MI, MC cables, subject to the National Electrical Code.~~

~~((a) Commercial buildings. Commercial buildings open to the public and designed, intended or used for the purpose of accommodating 200 or more persons. For determination of such population capacity, the following number of square feet per person shall be applied: for standing capacity, 3 square feet per person for such building areas as transit stations, bus depots, court rooms and like buildings; for fixed seating capacity, 6 square feet per person for such building areas as church chapels, conference rooms, multipurpose rooms and like buildings; for all other such commercial buildings, 25 square feet per person. Occupant capacity noted in Article 518 of the National Electrical Code governing those occupancies designated will not be recognized.~~

~~((b) Industrial plants. Industrial plants, except that open conductors of No. 4/0 or larger size may be installed on insulators not less than 20 feet above floor or working surface level in accordance with Article 220 of the National Electrical Code.~~

~~EXCEPTION NO. 1— For signal and control circuits, other than those defined as Class 1 circuits per National Electrical Code, Sections 725-3(a) and 725-4, open cable wiring approved for the purpose shall be permitted for Class 2 signal and control circuits installed in accordance with Article 725 of the National Electrical Code.~~

~~EXCEPTION NO. 2— Open cable wiring approved for the purpose (NFPA Bulletin No. 71) shall be permitted for Central Station Protective Systems installed and operator manned and supervised in accordance with the latest adopted edition of the National Fire Protection Association Bulletin No. 71.~~

~~EXCEPTION No. 3— Rigid nonmetallic conduit may be installed in areas outlined in National Electrical Code Section 300-6.~~

((4) Multifamily occupancy buildings (i.e., apartment buildings, hotels, motels and dormitories) of two or more stories, not including basement, shall be wired in accordance with Chapter 3 of the National Electrical Code except feeders and subfeeders in such buildings shall be wired in a raceway(s)) facilities, and other places of assembly shall be wired as set forth in Article 518 of the National Electrical Code, except the wiring methods in Section 518-3 EX 1 shall not be permitted.

AMENDATORY SECTION (Amending Order 69-2, filed 2/28/69, effective 4/1/69)

WAC 296-46-160 SERVICE REQUIREMENTS. The serving utility shall be consulted by the owner, ((his) the owner's agent, or the contractor making the installation regarding the service entrance location ((before installing)) and meter equipment requirements before installing service and equipment. Provisions for a meter, and related equipment, an attachment of service drop, or ((for) an underground service lateral shall be made at a location acceptable to the serving utility. The point of attachment for a service drop must permit the clearances required by ((law)) the National Electrical Code.

AMENDATORY SECTION (Amending Order 74-43, filed 12/19/74)

WAC 296-46-180 METER ((LOCATION)) INSTALLATION. Except as otherwise permitted by the serving utility, the height of the center of the meter ((height shall)) may not be more than 7 feet or less than 5 feet above finished grade or the floor below the meter. ((The center of the meter shall be the point of reference.)) Secondary instrument transformer conductors for metering shall not be permitted in the service raceway.

AMENDATORY SECTION (Amending Order 77-31, filed 1/31/78)

WAC 296-46-200 SERVICE ENTRANCE CONDUCTORS. (1) Service entrance conductors shall extend at least 18 inches from the service head to permit connection to the service drop. ((See National Electrical Code, Section 230-54.

(2) Service entrance conductors shall extend no more than 15 feet inside a building.

(3) Unfused code grade conductors 600 volts or less shall be installed in a metallic raceway when within the building structure. See National Electrical Code, Section 230-44.)

(2) Unfused service entrance conductors shall be installed in rigid metallic raceway or scheduled 80 nonmetallic raceway. The raceway shall extend no more than fifteen feet inside the building.

(3) Service conductors under the exclusive control of the serving utility shall comply with subsection (2) of this section. The neutral conductor may be identified with a yellow jacket.

AMENDATORY SECTION (Amending Order 77-31, filed 1/31/78)

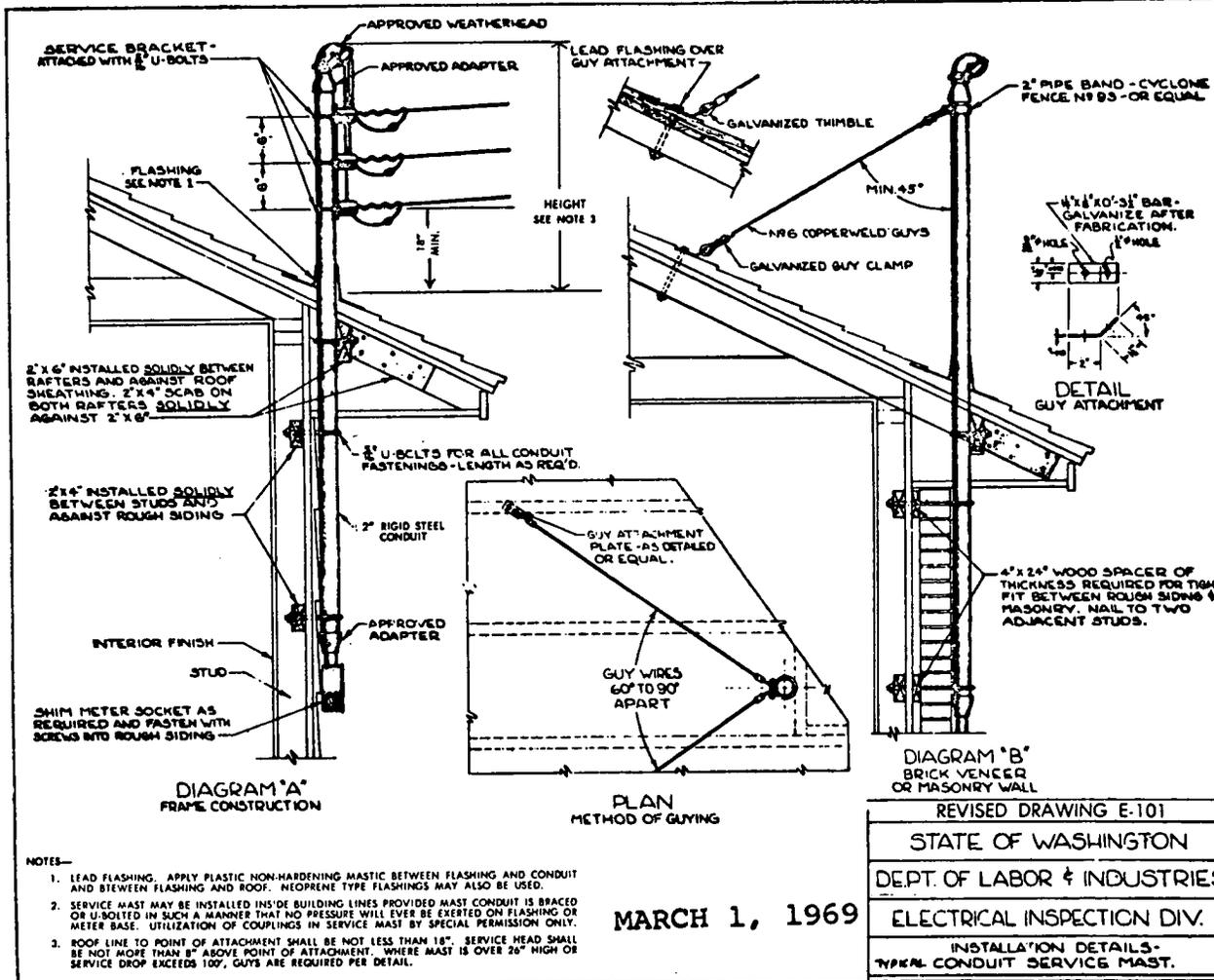
WAC 296-46-220 SERVICE EQUIPMENT. Service equipment, sub-panels, and similar electrical equipment shall be installed so that they are readily accessible and shall not be installed in bathrooms, clothes closets, shower rooms, cupboards, or attics, ((nor)) or above washers, clothes dryers, or plumbed-in fixtures. All service equipment and sub-panel equipment shall be adequately illuminated.

((Service equipment shall be readily accessible after any subsequent building additions.))

Service switches and other equipment exposed to elements of the outside weather shall be rain tight type factory built for the purpose. Refer to NEMA-3R.

AMENDATORY SECTION (Amending Order 69-2, filed 2/28/69, effective 4/1/69)

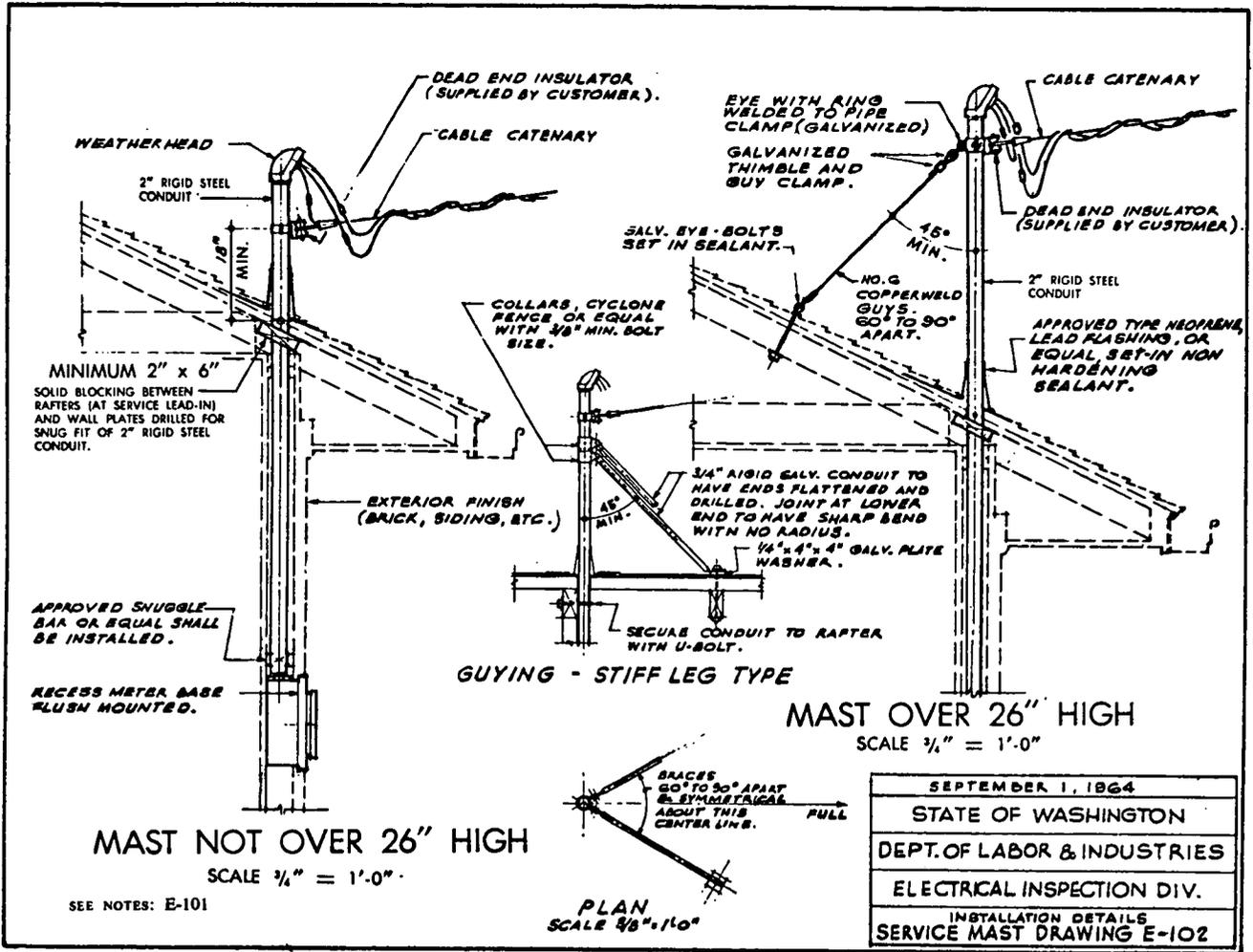
WAC 296-46-240 SERVICE MAST. A service entrance conduit extended through the roof to provide a means of attaching the service drop shall be no smaller than 2-inch rigid steel galvanized conduit. It shall provide a structurally sound attachment for the service drop and shall be equipped with a properly installed flashing at the roof line. Installation shall ((be in accordance)) comply with ((State)) drawings E-101 and E-102, or shall provide equivalent strength by other approved means.



MARCH 1, 1969

REVISED DRAWING E-101
 STATE OF WASHINGTON
 DEPT. OF LABOR & INDUSTRY
 ELECTRICAL INSPECTION DIV.
 INSTALLATION DETAILS -
 TYPICAL CONDUIT SERVICE MAST.

S. P. No. 9803-03-1-66.



NEW SECTION

WAC 296-46-336 RECESSED INCANDESCENT FIXTURES. Flush and recessed incandescent fixtures must be installed in accordance with National Electrical Code Section 410-64. In addition, all such fixtures installed in areas where insulation is to be used shall be identified as suitable for use within the thermal insulation.

AMENDATORY SECTION (Amending Order 81-5, filed 2/27/81, effective 4/1/81)

WAC 296-46-350 EMERGENCY SYSTEMS. ((See Article 700, National Electrical Code. Emergency systems shall comply with the latest adopted edition of the National Fire Protection Association Bulletin 101, Life Safety Code. In accordance with Section 700-12(d), National Electrical Code, separate emergency service conductors shall be provided and may be tapped on the load side of the electric utility metering equipment provided they are sufficiently separated and effectively fireproofed from the main service disconnecting means:

Emergency Systems: Exit and emergency lights in places of assembly and including corridors must be installed where the seating capacity is 200 or more. The seating capacity will be determined by allowing a basis of 6 square feet per person.)) Exit and emergency lights shall be installed in accordance with the National Electrical Code, Article 700, and Life Safety Code NFPA 101 in all health care facilities, educational facilities, hotels, motels, and places of assembly. Installation shall be made in strict accordance with the National Electrical Code, Article 700, and WAC 296-46-150.

AMENDATORY SECTION (Amending Order 69-2, filed 2/28/69, effective 4/1/69)

WAC 296-46-360 CARNIVALS, CIRCUSES, AND TRAVELING SHOWS. Wiring methods shall comply with Chapter 3 of the National Electrical Code.

(1) Secondary feeders shall be a type approved for the purpose((:)), and shall use type "S" cable or ((equal)) an equivalent.

(2) Each concession ((shall be considered in)) or ride is a single occupancy((, and)). A separate enclosed externally operable fused switch or circuit breaker shall be provided for each concession or ride.

AMENDATORY SECTION (Amending Order 75-25, filed 8/4/75)

WAC 296-46-370 BOAT MOORAGES AND SIMILAR INSTALLATIONS. ((In addition to complying)) Docks, wharves, boat moorages, and similar facilities in addition to complying with Article 555((:)) of the National Electrical Code((, there shall be)) shall have a disconnect located on the shoreline for all services of 600 volts or less ((for docks, wharves, boat moorages, etc. located at the shoreline, street side of the first point of building construction in compliance with WAC 296-46-200, subsection 2)).

AMENDATORY SECTION (Amending Order 69-2, filed 2/28/69, effective 4/1/69)

WAC 296-46-420 ((ALL)) ELECTRICAL EQUIPMENT GROUNDING. All electrical equipment grounding ((boxes, service and equipment and provisions for grounding receptacles, etc.)) for nonmetallic cable systems((:)) shall be completely made up at the time of ((rough-in)) the inspection.

AMENDATORY SECTION (Amending Order 77-31, filed 1/31/78)

WAC 296-46-480 LOCATION OF PAD-MOUNTED TRANSFORMERS. (1) ~~((Definition—))~~ A pad-mounted transformer installation is an installation of an oil-filled transformer outdoors ~~((wherein))~~ in which installation of all bushings, handholes, and live and operating parts are guarded by a solid metal enclosure ~~((so))~~ secured ~~((as to be available))~~ so that they are accessible to authorized qualified personnel only. This ~~((will))~~ does not prohibit the use of approved glass monitoring devices or properly baffled ventilators.

(2) ~~((Where))~~ If a pad-mounted transformer is to be installed ~~((adjacent))~~ next to a structure of combustible material, it shall not be installed closer than eight feet ~~((minimum))~~ to the structure. This eight foot separation ~~((should))~~ shall be measured from the nearest metal portion of the pad-mounted transformer installation to the nearest building features required to be safeguarded. ~~((In the case of))~~ If there are overhanging eaves or roof lines of combustible material on a standard single story structure, the eight foot measurement should be made ~~((in such a way as))~~ to provide eight feet of clear space between ~~((said))~~ the eaves and the nearest metal portion of the pad-mounted transformer installed outside a vertical line extended from the ends of the eaves to the ground if this distance is at least eight feet horizontally from the ~~((a))~~ all combustible walls. In addition, the grade of the ground at the location of the pad-mounted transformer shall be such that any oil leaking from the transformer will flow away from the building and will not form pools. As an exception to subsection (2) of this section, ~~((EXCEPTION:))~~ in an urban residential area ~~((s where))~~ that has an improved alleyway ~~((s are utilized))~~, and ~~((where))~~ in which a pad-mounted transformer is to be installed ~~((adjacent))~~ next to a noninhabited structure of combustible material ~~((; it))~~ the transformer shall not be installed closer than two feet ~~((minimum; provided the structure is noninhabited, such as an automobile garage))~~ to the structure.

(3) Pad-mounted transformers ~~((installations))~~ shall not be ~~((made))~~ installed nearer than two feet, measured horizontally, to a noncombustible building surface having no doors, windows, or other openings closer to the transformer than ~~((indicated in paragraph (2))~~ eight feet.

(4) Pad-mounted transformers ~~((installations))~~ should not be located where they are exposed to damage by automobiles, trucks, or other mobile ~~((type of))~~ machinery. ~~((Where))~~ If transformers are installed in areas subject to traffic other than pedestrian traffic, they shall be provided with additional guarding.

(5) Pad-mounted transformer installations shall ~~((meet the requirements for being))~~ be effectively grounded as provided in Section 250-51~~((;))~~ of the National Electrical Code.

AMENDATORY SECTION (Amending Order 69-2, filed 2/28/69, effective 4/1/69)

WAC 296-46-490 LOCATION OF TOTAL UNDERGROUND TRANSFORMERS. Enclosures for total underground oil filled transformers shall not be located within eight feet of a doorway or fire escape. Adequate space shall be maintained above the total underground transformer enclosure so that a boom may be used to lift the transformer.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 296-46-120 WORKMANSHIP.
- (2) WAC 296-46-170 CLEARANCE OF SERVICE DROP FOR SINGLE FAMILY OR DUPLEX RESIDENCES.
- (3) WAC 296-46-190 CURRENT TRANSFORMERS.
- (4) WAC 296-46-210 SERVICE ENTRANCE CABLE.
- (5) WAC 296-46-230 SERVICE ENTRANCE.
- (6) WAC 296-46-242 TRANSFORMER NEUTRAL GROUNDING.
- (7) WAC 296-46-244 UTILITY CONDUCTOR LIMITATIONS.

- (8) WAC 296-46-270 METALLIC PLUMBING LINES.
- (9) WAC 296-46-280 GARBAGE DISPOSAL, WASTE DISPOSAL OR WASTE COMPACTOR APPLIANCES AND DISHWASHER CIRCUITS.
- (10) WAC 296-46-290 RANGE CIRCUIT.
- (11) WAC 296-46-300 WATER HEATERS.
- (12) WAC 296-46-335 UNFINISHED AREAS.
- (13) WAC 296-46-355 MOBILE HOME CONNECTIONS.
- (14) WAC 296-46-380 ROCKCRUSHERS.
- (15) WAC 296-46-390 WOODWORKING PLANTS.
- (16) WAC 296-46-424 RESIDENTIAL OCCUPANCIES, GROUND FAULT CIRCUIT INTERRUPTERS.
- (17) WAC 296-46-426 BONDING AGRICULTURAL STRUCTURES AND EQUIPMENT.
- (18) WAC 296-46-495 SAFE WIRING LABELS AND FEES.
- (19) WAC 296-46-500 ELECTRICAL ADVISORY BOARD.
- (20) WAC 296-46-501 BOARD OF ELECTRICAL EXAMINERS.
- (21) WAC 296-46-535 APPEARANCE AND PRACTICE BEFORE ADVISORY BOARD.
- (22) WAC 296-46-540 SOLICITATION OF BUSINESS UNETHICAL.
- (23) WAC 296-46-545 STANDARDS OF ETHICAL CONDUCT.
- (24) WAC 296-46-550 APPEARANCE BY FORMER EMPLOYEE.
- (25) WAC 296-46-555 FORMER EMPLOYEE AS EXPERT WITNESS.
- (26) WAC 296-46-560 COMPUTATION OF TIME.
- (27) WAC 296-46-565 ADMINISTRATIVE PROCEDURE ACT.
- (28) WAC 296-46-590 ELECTRIC HEATING.
- (29) WAC 296-46-59005 APPENDIX A—RESIDENTIAL HEAT LOSS TABLES.
- (30) WAC 296-46-59010 APPENDIX B—OUTDOOR DESIGN TEMPERATURES.
- (31) WAC 296-46-900 APPENDIX C—DRAWING E-103.
- (32) WAC 296-46-905 APPENDIX D—DRAWING E-104.

WSR 84-07-011

**NOTICE OF PUBLIC MEETINGS
SEATTLE COMMUNITY
COLLEGE DISTRICT**

[Memorandum—March 7, 1984]

The next regularly scheduled meeting of the Seattle Community College District board of trustees has been changed from April 2 to April 9, 1984. This special meeting on the 9th will be held at 6:30 p.m., at North Seattle Community College, 9600 College Way North, Seattle, WA 98103.

WSR 84-07-012

**NOTICE OF PUBLIC MEETINGS
BOARD FOR
VOLUNTEER FIREMEN**

[Memorandum—March 12, 1984]

The Board for Volunteer Firemen will next meet on March 23, 1984, at 10:00 a.m. in the Temple of Justice, Olympia, Washington.

WSR 84-07-013
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed March 14, 1984]

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 Allocation of income—Institutionalized recipient, amending WAC 388-95-360.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 12, 1984.

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.

This notice is connected to and continues the matter in Notice No. WSR 84-04-054 filed with the code reviser's office on January 31, 1984.

Dated: March 14, 1984
 By: David A. Hogan, Director
 Division of Administration and Personnel

WSR 84-07-014
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)
 [Order 2082—Filed March 14, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to certificate of need, amending chapter 248-19 WAC.

This action is taken pursuant to Notice No. WSR 84-04-026 filed with the code reviser on January 25, 1984. 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 70.38.135 which directs that the Department of Social and Health Services has authority to implement the provisions of chapter 70.38 RCW.

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 March 14, 1984.

By David A. Hogan, Director
 Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 210, filed 4/9/81, effective 5/20/81)

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) "Affected persons" means the applicant, the health systems agency for the health service area (~~(in which)~~) where the proposed project is to be located, health systems agencies serving contiguous health service areas, health care facilities and health maintenance organizations located in the health service area (~~(in which)~~) where the project is proposed to be located (~~(which provide)~~) providing services similar to the services under review, health care facilities and health maintenance organizations, which, prior to receipt by the department of the proposal being reviewed, have formally indicated an intention to provide similar services in the future, third-party payers (~~(who reimburse)~~) reimbursing health care facilities for services in the health service area (~~(in which)~~) where the project is proposed to be located, any agency (~~(which establishes)~~) establishing rates for health care facilities or health maintenance organizations located in the health service area (~~(in which)~~) where the project is proposed to be located, any person residing within the geographic area served or to be served by the applicant, and any person (~~(who)~~) regularly (~~(uses)~~) using health care facilities within that geographic area.

(3) "Ambulatory care facility" means any place, building, institution, or distinct part thereof (~~(which is)~~) not a health care facility as defined in this section and (~~(which is)~~) 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.

(4) "Ambulatory surgical facility" means a facility, not a part of a hospital, (~~(which provides)~~) 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.

(5) "Applicant," except as used in WAC 248-19-390, means any person (~~(who proposes)~~) proposing to engage in any undertaking (~~(which is)~~) subject to review under the provisions of chapter 70.38 RCW and Title XV of the Public Health Service Act as amended by (~~(Public Law)~~) P.L. 96-79.

"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 (~~(that engages)~~) engaging in any undertaking (~~(which is)~~) subject to review under the provisions of chapter 70.38 RCW and Title XV of the Public Health Service Act as amended by (~~(Public Law)~~) P.L. 96-79.

(6) "Annual implementation plan" means a description of objectives which will achieve goals of the health systems plan and specific priorities among the objectives. The annual implementation plan is for a one-year period and must be reviewed and amended as necessary on an annual basis.

(7) "Board" means the Washington state board of health.

(8) "Capital expenditure" means an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by a facility as its own contractor), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. 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 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.

(9) "Certificate of need" means a written authorization by the secretary for a person to implement a proposal for one or more undertakings.

(10) "Certificate of need unit" means that organizational unit of the department (~~(which is)~~) responsible for the management of the certificate of need program.

(11) "Commencement of construction" means whichever of the following occurs first: 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.

(12) "Construction" 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.

(13) "Council" means the state health coordinating council established under the provisions of chapter 70.38 RCW and Title XV of the Public Health Service Act as amended by (~~(Public Law)~~) P.L. 96-79.

(14) "Days," except when called "working days," means calendar days (~~(which are)~~) counted by beginning with the day after the date of the act, event, or occurrence from which the designated period of time begins to run. If the last day of the period so counted should fall on a Saturday, Sunday, or legal holiday observed by the state of Washington, a designated period shall run until the end of the first working day (~~(which follows)~~) following the Saturday, Sunday, or legal holiday.

"Working days" exclude all Saturdays and Sundays, January 1, February 12, the third Monday in February, the last Monday of May, July 4, the first Monday in September, November 11, the fourth Thursday in November, the day immediately following Thanksgiving day, and December 25. Working days are counted by beginning with the first working day after the date of the act, event, or occurrence from which a designated period of time begins to run.

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

(16) "Expenditure minimum" means one hundred fifty thousand dollars for the twelve-month period beginning with October 1979, and for each twelve-month period thereafter the figure in effect for the preceding twelve-month period adjusted to reflect the change in the preceding twelve-month period, in an index established by rules and regulations by the department for the purpose of making such adjustment.

(17) "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 hemodialysis units, ambulatory surgical facilities, rehabilitation facilities, 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 Title XV of the Public Health Service Act as amended by (~~(Public Law)~~) P.L. 93-641 and implementing regulations, but does not include Christian Science sanatoriums operated or listed and certified by the First Church of Christ Scientist, Boston, Massachusetts.

(18) "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 (18)(b)(i) of this ((subsection)) section to enrolled participants by a payment which is paid 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).

(19) "Health services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services and includes alcoholism, drug abuse, and mental health services.

(20) "Health systems agency" means a public regional planning body or a private nonprofit corporation (~~(which is)~~) organized and operated in a manner (~~(that is)~~) consistent with the laws of the state of Washington and (~~(Public Law)~~) P.L. 93-641 and (~~(which is)~~) capable of performing each of the functions described in RCW 70.38.085, and is capable as determined by the secretary of the United States Department of Health and Human Services, upon recommendation of the governor or the council, of performing each of the functions described in

the federal law, Title XV of the Public Health Service Act as amended by ~~((Public Law))~~ P.L. 96-79.

"Appropriate health systems agency" means the health systems agency for the health service area (~~((in which))~~) where a particular project is to be located.

(21) "Health systems plan" means a plan established by a health systems agency which is a detailed statement of goals and resources required to reach those goals as described in the federal law, Title XV of the Public Health Service Act as amended by ~~((Public Law))~~ P.L. 96-79.

(22) "Home health agency" means any entity which is or is to be certified as a provider of home health services in the Medicaid or Medicare program.

(23) "Hospice" means any public or private entity, center, institution, or distinct part or parts thereof certified or to be certified as a hospice provider in the Medicare program or licensed or certified by the state of Washington to provide hospice services or providing a coordinated program of home and inpatient services for the terminally ill. Services provided by a hospice are primarily palliative and supportive rather than curative in nature, including bereavement care to the family after the patient's death, and provided by an interdisciplinary team. The services are designed to meet the physiological, psychological, social, and spiritual needs of the patient and his or her family.

~~((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 (~~((which is))~~) 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 psychiatric hospitals.

~~((24))~~ (25) "Hospital commission" means the Washington state hospital commission established pursuant to chapter 70.39 RCW.

~~((25))~~ (26) "Inpatient" means a person (~~((who receives))~~) receiving health care services with board and room in a health care facility on a continuous twenty-four-hour-a-day basis.

~~((26))~~ (27) "Institutional health services" means health services provided in or through health care facilities and entailing annual direct operating costs of at least seventy-five thousand dollars for the twelve-month period beginning with October 1979, and for each twelve-month period thereafter the figure in effect for the preceding twelve-month period adjusted to reflect the change in the preceding twelve-month period in an index established by rules and regulations by the department.

~~((27))~~ (28) "Intermediate care facility" means any institution or distinct part thereof (~~((which is))~~) certified as an intermediate care facility for participation in the Medicaid (Title XIX of the Social Security Act) program.

~~((28))~~ (29) "Kidney disease treatment center" means any place, institution, building or agency or a

distinct part thereof (~~((which is))~~) equipped and operated to provide services, (~~((which include))~~) including dialysis services, to persons who have end-stage renal disease.

~~((29))~~ (30) "Long-range health facility plan" means a document prepared by each hospital (~~((which contains))~~) containing a description of (~~((its))~~) the hospital's plans for substantial changes in (~~((its))~~) the facilities and services for three years.

~~((30))~~ (31) "Major medical equipment" means a single unit of medical equipment or a single system of components (~~((which is))~~) used for the provision of medical and other health services and (~~((which costs))~~) costing in excess of one hundred fifty thousand dollars, except that 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 (~~((it))~~) 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.

~~((31))~~ (32) "May" means permissive or discretionary.

~~((32))~~ (33) "Nursing home" means any home, place, institution, building or agency or distinct part thereof (~~((which operates))~~) operating or (~~((maintains))~~) 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. The term "nursing home" includes any such entity (~~((which is))~~) owned and operated by the state or (~~((which is))~~) 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. The term "nursing home" does not include: General hospitals or other places (~~((which provide))~~) providing care and treatment for the acutely ill and (~~((maintain))~~) maintaining and (~~((operate))~~) 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 (~~((which is))~~) operated to provide only board, room, and laundry to persons not in need of medical or nursing treatment or supervision.

~~((33))~~ (34) "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 proposing such capital expenditure 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 (~~which constitutes~~) 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.

~~((34))~~ (35) "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.

~~((35))~~ (36) "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.

~~((36))~~ (37) "Predevelopment expenditures" means capital expenditures, the total of which exceeds the expenditure minimum, (~~which are~~) 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 may be considered the "commencement of construction" as this term is defined in this section.

~~((37))~~ (38) "Project" means any and all undertakings which may be or are proposed in a single certificate of need application or for which a single certificate of need is issued.

~~((38))~~ (39) "Psychiatric hospital" means any institution or distinct part thereof (~~which is~~) 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 (~~which is~~) 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.

~~((39))~~ (40) "Rehabilitation facility" means an inpatient facility (~~which is~~) operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other health services (~~which are~~) provided under competent professional supervision.

~~((40))~~ (41) "Secretary" means the secretary of the Washington state department of social and health services or his or her designee.

~~((41))~~ (42) "Shall" means compliance is mandatory.

~~((42))~~ (43) "Skilled nursing facility" means any institution or distinct part thereof (~~which is~~) certified as a skilled nursing facility for participation in the Medicare (Title XVIII) or Medicaid (Title XIX) program.

~~((43))~~ (44) "State health plan" means a document, described in Title XV of the Public Health Service Act,

developed by the department and the council in accordance with RCW 70.38.065.

~~((44))~~ (45) "State Health Planning and Resources Development Act" means chapter 70.38 RCW.

~~((45))~~ (46) "Undertaking" means any action which, according to the provisions of chapter 248-19 WAC, is subject to the requirements for a certificate of need or an exemption from the requirements for a certificate of need.

AMENDATORY SECTION (Amending Order 210, filed 4/9/81, effective 5/20/81)

WAC 248-19-230 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.¹

(a) The construction, development, or other establishment of a new health care facility.

(b) Any capital expenditure by or on behalf of a health care facility (~~which~~) substantially changing the health services of the facility. Substantial changes in services shall be limited to the following:

(i) (~~Is associated with the addition of a substantial health service not provided by or on behalf of the facility within the previous twelve months or which is associated with the termination of a substantial health service provided in or through the facility, or~~) The establishment of health services not offered on a regular basis within the twelve-month period prior to the time such services are offered or the termination of such services;

(ii) The introduction of a new technology for diagnosis or treatment;

(iii) A change in the level of service; or

(iv) The offering of any of the following health services at a new location not formerly part of the health care facility's campus. Specific substantial changes in services are as follows:

Alcoholism/substance abuse

Burn unit

Cardiac catheterization

Chronic renal dialysis

Kidney lithotripsy

CT-computed tomography

NMR-nuclear magnetic resonance

PET-positron emission tomography

Emergency services including regular outpatient emergency services staffed by physicians at a health care facility, and the provision of ambulance services, including air ambulance, licensed under chapter 18.73 RCW.

Inpatient psychiatric services

Neonatal special care-level III

Obstetrics-level I

Obstetrics-level II

Obstetrics-level III

Organ transplants, including only heart, liver, kidney, bone marrow, brain, and lung transplants

Open heart surgery

Pediatrics-level I

Pediatrics-level II

Pediatrics-level III

Radiation therapy-megavoltage, orthovoltage

Rehabilitation-level I

Rehabilitation-level IIRehabilitation-level IIIChange in the number of dialysis stations in a health care facility, andChange from mobile to fixed base CT scanning.

The department may, periodically and on an emergency basis, revise and update specific substantial changes in services.

~~((ii))~~ (c) Any capital expenditure by or on behalf of a health care facility exceeding the expenditure minimum as defined by WAC 248-19-220(16). The costs of any studies, surveys, designs, plans, working drawings, specifications, and other activities (including staff effort and consulting and other services which under generally accepted accounting principles are not properly chargeable as an expense of operation and maintenance) essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which such expenditure is made shall be included in determining the amount of the expenditure. Functional programming and general long-range planning activities, including marketing surveys and feasibility studies, are not to be included when determining whether an expenditure exceeds the expenditure minimum.

~~((c))~~ (d) A change in bed capacity of a licensed health care facility which increases the total number of licensed beds or redistributes beds among facility and service categories of acute care, skilled nursing, intermediate care, and boarding home care if the bed redistribution is to be effective for a period in excess of six months.

~~((d))~~ (e) The obligation of any capital expenditure by or on behalf of a health care facility (~~which is~~) not required to be licensed for a change in bed capacity which increases the total number of beds, or redistributes beds among various categories, by more than ten beds or more than ten percent of total bed capacity as defined by the department, whichever is less, over a two-year period.

~~((c))~~ (f) Acquisition of major medical equipment:

(i) If the equipment will be owned by or located in an inpatient health care facility; or

(ii) If the equipment is not to be owned by or located in a health care facility and the department finds, consistent with WAC 248-19-403, that:

(A) The equipment will be used to provide services for inpatients of a hospital on other than a temporary basis in the case of a natural disaster, a major accident, or equipment failure; or

(B) The person acquiring such equipment did not notify the department of the intent to acquire such equipment at least thirty days before entering into contractual arrangements² for such acquisition.

~~((f))~~ (g) The acquisition of an existing health care facility which the department has determined, in accordance with the provisions of subsection (2) of this section, is subject to review;

~~((g))~~ (h) Any new institutional health services which are offered by or on behalf of a health care facility and which were not offered on a regular basis by or on behalf of such health care facility within the twelve-

month period prior to the time such services would be offered.

~~((h))~~ (i) Any expenditure by or on behalf of a health care facility in excess of the expenditure minimum made in preparation for any undertaking under this subsection and any arrangement or commitment made for financing such undertaking. Expenditures of preparation shall include expenditures for architectural designs, plans, working drawings and specifications.

~~((i))~~ (j) The obligation of any capital expenditure by or on behalf of a health care facility which decreases the total number of licensed beds or relocates beds from one physical facility or site to another by ten beds or ten percent, whichever is less, in any two-year period.

~~((j))~~ (k) Any acquisition by donation, lease, transfer, or comparable arrangement, by or on behalf of a health care facility, if the acquisition would otherwise be reviewable under chapter 248-19 WAC if made by purchase.

(2) At least thirty days before any person acquires or enters into a contract² to acquire an existing health care facility, the person shall provide written notification to the department and the appropriate health systems agency, and in the case of a hospital, the hospital commission, of the person's intent to acquire the facility.

(a) Written notification of intent, to be considered valid, shall be made in a form and manner acceptable to the secretary and shall include:

(i) The name and address of the health care facility to be acquired;

(ii) The name and address of the person (~~who intends~~) intending to acquire the health care facility;

(iii) A description of the means by which the health care facility would be acquired, including the total capital expenditures associated with the acquisition, and the intended date of incurring the contractual obligation to acquire the health care facility;

(iv) The name and address of the person from whom the facility is to be acquired; and

(v) A description of any changes in institutional health services or bed capacity proposed by the person (~~who would acquire~~) acquiring the health care facility.

(b) A certificate of need shall be required for the obligation of a capital expenditure to acquire by purchase, or under lease or comparable arrangement, an existing health care facility if:

(i) A written notification of intent to acquire an existing health care facility is not provided in accordance with WAC 248-19-230(2), or

(ii) The department finds within fifteen working days after receipt of a written notification to acquire a health care facility that the services or bed capacity of the facility will be changed in being acquired.

(c) Within fifteen working days after receipt of a written notification of intent, the department shall send written notice to the person intending to acquire the health care facility, indicating:

(i) Whether the written notification constitutes a valid notification, as prescribed in (~~subdivision~~) subsection (2)(a) of this (~~subsection~~) section and, if such notification is valid,

(ii) Whether such acquisition is subject to certificate of need review.

(d) If the department fails to make a determination within thirty days after receipt of a valid notice, the health care facility may be acquired without a certificate of need.

(3) With respect to ambulatory care facilities and inpatient health care facilities (~~(which are)~~) controlled (directly or indirectly) by a health maintenance organization or combination of health maintenance organizations, the provisions of chapter 248-19 WAC shall apply only to the offering of inpatient institutional health services, the acquisition of major medical equipment, and the obligation of capital expenditures for the offering of inpatient institutional health services, and then only to the extent that such offering, acquisition, or obligation is not exempt under the provisions of WAC 248-19-405.

(4) The extension, on more than an infrequent basis, of the services of a home health agency(~~(s services)~~) or a hospice to a population residing in a county not previously regularly included in the service area of that home health agency or hospice during the preceding twelve months constitutes extension of home health services or hospice services beyond ~~((its))~~ a defined geographic area and shall be considered the development or establishment of a new home health agency or hospice.

(5) No person shall engage in any undertaking (~~(which is)~~) subject to certificate of need review under the provisions of this chapter unless a certificate of need authorizing such undertaking has been issued and remains valid or an exemption has been granted in accordance with the provisions of this chapter.

(6) No person may divide a project in order to avoid review requirements under any of the thresholds specified in this section.

(7) The department may issue certificates of need permitting predevelopment expenditures only, without authorizing any subsequent undertaking with respect to which such predevelopment expenditures are made.

(8) A certificate of need application, the review of which had begun but upon which final action had not been taken prior to January 1, 1981, shall be reviewed and final action taken based on chapter 70.38 RCW and chapter 248-19 WAC as in effect prior to January 1, 1981.

(9) Certificates of need issued prior to January 1, 1981, shall not be terminated and the periods of validity of such certificates of need shall not be modified under the provisions of chapter 248-19 WAC which become effective January 1, 1981.

(10) A project for which certificate of need review was waived under the provisions of WAC 248-19-230(8) as in effect January 1, 1980, to January 1, 1981, shall have been completed by January 1, 1981, or, in the case of a construction project, commencement of construction shall have occurred by January 1982. If this requirement is not met, the project shall become subject to the requirements for a certificate of need.

(11) A proposed change in a project associated with a capital expenditure for which a certificate of need has been issued shall be subject to certificate of need review if the change is proposed within one year after the date

the activity for which the capital expenditure was approved has been undertaken.

(a) Projects subject to review under this subsection include proposed changes in projects originally subject to review according to the provisions of subsection (1)(b), (c), (d), (e), or ~~((f))~~ (j) of this section.

(b) No capital expenditure need be associated with a proposed change in a project subject to review under this subsection.

(c) A proposed change in a project shall include any change in the licensed bed capacity of a facility, and the addition or termination of an institutional health service.

(12) Administrative review.

(a) The secretary shall have the authority to review and take action, on the basis of information submitted on an abbreviated application form acceptable to the secretary, the following categories of expenditures:

(i) The acquisition of land;

(ii) Capital costs associated with the refinancing of existing debt;

(iii) The obligation of any capital expenditure by or on behalf of a health care facility which decreases the total number of licensed beds or relocates licensed beds from one physical facility or site to another by ten beds or ten percent, whichever is less, in any two-year period; and

(iv) A proposed change in a project reviewed in accordance with WAC 248-19-230(11).

(b) Such review shall be completed within ten working days after receipt of an application.

(13) The provision of hospice services by an entity providing the services described in the definition of "hospice" in WAC 248-19-220, when such an entity was providing services as of July 24, 1983, shall not be considered the establishment of a new health facility or service and shall not be subject to certificate of need review. Persons providing hospice services as of July 24, 1983, shall submit information prescribed by the department showing they were providing hospice services as of that date and showing the services provided and the county or counties comprising the service area.

NOTE:

¹Where a hospital is part of a larger institution, such as a university, the components of the larger institution (e.g., a component conducting medical research) not related to the hospital will not be considered part of the hospital, whether or not the hospital is a distinct legal entity. Similarly, when there is a legal entity, the primary activity of which is operating a hospital, but which also operates a distinct research component, the research component will not be considered part of the hospital. In these cases, the component conducting medical research that is distinct from the hospital and that neither provides inpatient services nor uses revenues derived from patient charges at the hospital to finance its operations will not be considered part of the hospital.

Further, expenditures by a component of a larger institution, such as a university, which is distinct from a separate health care facility component, such as the university's hospital, will not be viewed as being

"by a health care facility." Thus, a capital expenditure by a university medical school that is a distinct component of the university will not be considered to be "by" the hospital of the university. In finding that the medical school is distinct, the department must find at least that the revenues derived from patient charges at the hospital of the university are not used for operating expenses of the medical school.

If a capital expenditure exceeds the expenditure minimum, for it to be required to be subject to review, the department must find that it is "on behalf of" a health care facility. Such an expenditure is also required to be subject to review if it is for the acquisition of major medical equipment and meets the conditions set forth in WAC ((~~248-19-230(1)(c)~~) 248-19-230(1)(f)). The same analysis would apply to a distinct research component of a legal entity, the primary activity of which is operating a hospital.

²A person may enter into a contractual arrangement at an earlier date, provided such contractual arrangement is contingent upon a determination by the department that a certificate of need is not needed or upon issuance of a certificate of need.

WSR 84-07-015
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2084—Filed March 14, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Medical care services—General assistance, amending WAC 388-86-120.

This action is taken pursuant to Notice No. WSR 84-04-055 filed with the code reviser on January 31, 1984. 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 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 March 14, 1984.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1996, filed 8/5/83)

WAC 388-86-120 MEDICAL CARE SERVICES (GAU). A recipient of a continuing general assistance grant is eligible to receive the same scope of care (WAC 388-86-005) as a recipient of medicaid, except that no

care will be provided outside the state of Washington other than in designated bordering cities as specified in chapter 388-82 WAC, and shall be subject to the following additional limitations.

(1) Prescribed drugs are limited to specific therapeutic classifications. Lists are published through the Drug Formulary and/or official memoranda.

(2) Mental health services will be provided only in community mental health centers.

(3) ((Hearing aids are not provided.

(4)) Eligibility for medical care services shall commence with the date of certification for general assistance. There shall not be retroactive certification for medical care received prior to the initial date of eligibility for the general assistance program.

WSR 84-07-016
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2085—Filed March 14, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to monthly maintenance standard applicant not in own home, amending WAC 388-83-036.

This action is taken pursuant to Notice No. WSR 84-04-004 filed with the code reviser on January 19, 1984. 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 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 March 14, 1984.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1685, filed 7/29/81)

WAC 388-83-036 MONTHLY MAINTENANCE STANDARD—APPLICANT NOT IN OWN HOME. (1) The monthly standard for a Title XVI related individual or GA-U recipient living in a CCF, adult family home, adult residential treatment facility (ARTF) or group home shall be the cost standard of the facility. Cost plus a specified CPI may not exceed three hundred percent of the current SSI federal benefit level.

(2) The AFDC recipient receiving intensive (thirty days or less) alcohol treatment may be granted GA-U funds within the maximum which are paid to the facility for the cost of care.

(3) For the Title XVI related person with income, all earned and unearned exemptions allowed by SSI may be retained for personal needs. The GA-U recipient is subject to GA-U income and resource standards.

(4) If income available to the recipient is less than the CPI standard, a state payment is authorized to the recipient to meet his or her personal needs.

(5) Payment is made by the department to the facility for the difference between income available for payment on care and the cost standard of the facility.

2083

WSR 84-07-017
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order ~~2085~~ Filed March 14, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

- Amd WAC 388-87-095 Payment—Physicians services.
- Amd WAC 388-99-030 Allocation of excess income—Spendedown.

This action is taken pursuant to Notice No. WSR 84-04-054 filed with the code reviser on January 31, 1984. 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 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 March 14, 1984.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1684, filed 7/29/81)

WAC 388-87-095 PAYMENT—PHYSICIAN SERVICE. (1) General provisions.

(a) Billing and payment for physician services will be made in accordance with divisional billing instructions and schedule of maximum allowances.

(b) The CSO may request a physician to complete a physical examination as described in WAC 388-86-095(2). In such cases, the local office requests the physician to arrange an appointment for the individual and provides the physician with a preapproved form A-19 for billing. A predetermined fee has been established for the cost of such examination, plus necessary laboratory and x-ray procedures. If the physician completes form 13-21, medical report, from available medical records without conducting an examination, an adjusted fee shall be paid.

(2) Exclusions and limitations.

(a) No payment is made to the physician for mileage.

(b) No payment is made to the physician for prescription refills.

(c) No payment is generally made for medical supplies used in conjunction with an office visit; however, payment may be made for items such as sling and swathe, clavicle and shoulder splints, cervical collars and ace bandages, subject to the limitations of the physician's acquisition cost.

(d) When it comes to the attention of the division of medical assistance that a physician bills the department for inpatient hospitalization visits and the period of hospitalization has been denied, no payment will be made.

(e) EPSDT screenings, as described in WAC 388-86-027, shall be limited to:

(i) A maximum of five screenings for children under the age of one year;

(ii) An average of one screening annually by a provider for children between the ages of one and twenty-one years.

AMENDATORY SECTION (Amending Order 1725, filed 12/3/81)

WAC 388-99-030 ALLOCATION OF EXCESS INCOME—SPENDDOWN. (1) On initial or subsequent applications previously incurred medical expenses are deducted from excess countable income subject to the following restrictions.

(a) The medical expense must be a current liability of the individual or financially responsible relative in the same household. See WAC 388-92-025(4).

(b) The medical expenses have not been used at any other time to reduce excess countable income on a medical application which resulted in eligibility.

(c) The portion of the medical expense paid or covered by third-party liability can not be considered toward spenddown.

(d) Only medical services provided by practitioners recognized under state law will be considered. ((See ~~WAC 388-87-005:~~

~~(e) Certain services recognized under state law will not be considered.~~

~~(f) Medical services recognized for purposes of reducing excess countable income are stated in chapters 388-86 and 388-91 WAC, and shall include chiropractic and adult dental services.))~~

(2) If the incurred medical bills equal or exceed the excess countable income at the time of application, the applicant is certified eligible.

(3) If the incurred medical bills are less than the excess countable income, the application is not approved and the individual is required to spenddown the remaining excess countable income. The applicant is certified eligible only when excess countable income has been completely spenddown. Medical expenses incurred during the spenddown period are deducted in the following order:

(a) Medicare and other health insurance premiums, deductibles, coinsurance charges, enrollment fees, or copayments.

(b) Expenses for necessary medical and remedial care not covered by the limited casualty program.

(c) Expenses for necessary medical and remedial care covered by the limited casualty program which have been paid by the applicant.

(d) Expenses for necessary medical and remedial care covered by the limited casualty program which have not been paid.

(4) The applicant is responsible for providing complete documentation of incurred medical expenses. Once medical eligibility has been approved, expenses which were not listed or which were omitted will not be considered. Such expenses may be used to reduce excess countable income on a subsequent application provided the conditions in subsection (1) of this section are met.

(5) The applicant is liable for any expenses incurred prior to the spenddown satisfaction date.

WSR 84-07-018
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 2086—Filed March 14, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to community alternatives program (CAP), new WAC 275-27-800, 275-27-810 and 275-27-820.

This action is taken pursuant to Notice No. WSR 84-04-009 filed with the code reviser on January 20, 1984. 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 71.20.020 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 March 14, 1984.

By David A. Hogan, Director
Division of Administration and Personnel

NEW SECTION

WAC 275-27-800 COMMUNITY ALTERNATIVES PROGRAM (CAP). Purpose—Legal basis.

(1) The purpose of this program is to authorize certain home and community-based services for persons with developmental disabilities to provide an alternative to care in an institution for the mentally retarded (IMR).

(2) Community alternatives program (CAP) is a Medicaid program authorized by P.L. 97-35 Section 2176 as approved by the secretary of the U.S. Department of Health and Human Services.

NEW SECTION

WAC 275-27-810 ELIGIBLE PERSONS. (1) To be eligible to apply for community alternatives program (CAP) services, the individual must:

(a) Meet the criteria for the division of developmental disabilities (DDD) eligibility.

(b) Meet the criteria for disability as established in the Social Security Act.

(c) Have an income of less than three hundred percent of the federal Supplemental Security Income (SSI) benefit amount.

(d) Need an IMR level of care as determined by a DDD nursing care consultant.

(i) Require twenty-four hour care and require services that cannot be provided by a family member, and

(ii) Have a documented need for habilitation services and training.

(2) Participation in CAP is by choice of the otherwise IMR-eligible person.

NEW SECTION

WAC 275-27-820 CAP—SERVICES. (1) The following services may be authorized as specified by the individual service plan.

(a) Case management services, including intake, eligibility determination, assessment of need, placement, coordination, service authorization, and case monitoring.

(b) Habilitation services, including training, support, and supervision of developing the individual's physical skills, personal care, and social or community integration skills.

(c) Respite care for eligible individuals needing temporary support and supervision which cannot be provided by his or her family.

(d) Professional and other community-based services.

(2) The projected cost of services in the CAP individual service plan may not exceed eighty percent of the cost of care in an IMR, as determined by DDD case management services at the time of individual service plan development.

(3) The division shall review CAP eligibility annually.

WSR 84-07-019
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2087—Filed March 14, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to AFDC and GAU—Eligibility—Need, amending chapter 388-28 WAC.

This action is taken pursuant to Notice No. WSR 84-04-003 filed with the code reviser on January 19, 1984. 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 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 March 14, 1984.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1940, filed 1/28/83, effective 3/1/83)

WAC 388-28-400 EFFECT OF RESOURCES ~~((AND INCOME))~~ ON FINANCIAL NEED—SUMMARY OF BASIC POLICIES. (1) Meaning of resources.

(a) A resource is any property which the applicant possesses and can currently use to supply all or part of his or her requirements. See definition of "resource" and "income" in WAC 388-22-030.

(b) Property shall be considered a resource only when ~~((it))~~ the property is actually at hand for current use and/or disposition by the applicant. Real and personal property shall be considered at hand for current use and disposition when ~~((it))~~ the real and personal property can be utilized to supply requirements by use, by direct transfer to a buyer, by conversion into cash, or by a pledge of such asset.

(c) Resources shall be considered to be at hand for current use and/or disposition whenever ~~((they))~~ the resources are in the form of real or personal property over which the applicant has title or control. Title exists in the form of record title to real estate and certain personal property, such as an automobile; title to most other personal property exists by mere possession. Title to property raises a presumption of the right and ability of the title holder to use or dispose of such property.

(2) Consideration of resources and resource potentials.

(a) For the purpose of determining current and continued eligibility for public assistance, the local office shall evaluate the status of all real or personal property (community, separate, or jointly owned) held by or subject to the disposition or control of an applicant and his or her spouse and members of the assistance unit.

(b) Also, the resource potentials of such persons must be considered.

(3) Exempt resources. Exempt resources do not affect eligibility in terms of their disposition value but may in respect to the use or income producing value.

(4) Nonexempt resources. Any resource except those listed in WAC 388-28-420 and WAC 388-28-430 as exempt is a nonexempt resource and shall be evaluated according to the resource's equity value—fair market value minus encumbrances (legal debts). The possession of all nonexempt resources affects eligibility. Their sale, pledge, lease, rental, or use values are used to determine financial need. ~~((When such values are equal to the appropriate payment level plus authorized additional requirements the applicant is ineligible. If the appropriate payment level plus authorized additional requirements~~

~~exceed the values of nonexempt resources, eligibility exists in the difference:))~~

(5) Clarification of ownership or value.

(a) If there is evidence ~~((that))~~ the applicant has a resource but there is also some doubt about ~~((this))~~ the resource or about ~~((its))~~ the resource's value, the applicant is responsible for clarifying the data to the extent of his or her ability to do so. Without such clarification, continuing eligibility cannot be established.

(b) If the applicant does not clarify the facts in question within a reasonable period of time set by the local office, but not to exceed forty-five days from date of application, eligibility does not exist for continuing assistance.

(c) If the applicant is handicapped in his or her ability to clarify his or her eligibility, the local office shall assist him or her to do so.

(d) If the applicant produces evidence supporting his or her eligibility but doubt of ~~((its))~~ the evidence's reliability or conclusiveness still exists, the local office shall attempt to obtain conclusive evidence directly.

(6) An applicant must proceed to make available any resource which will reduce need.

In determining whether an applicant is proceeding with reasonable diligence to make a resource potential available to meet need, the local office is governed by the factors involved in individual situations. The applicant is responsible for submitting evidence in the form of statements or letters ~~((which would indicate))~~ indicating the factors involved and the approximate time ~~((that))~~ a final decision could be expected. A definite period of time is determined by the local office, made known to the applicant, and recorded.

(7) ~~((Conditional eligibility:))~~ When an applicant has taken reasonably required action to make a resource potential available but without success, his or her current eligibility is not affected. However, if there is reason to believe ~~((that))~~ the resource potential will be available later, his or her continued eligibility is conditional and subject to review at such later period at which time the appropriate policy herein is utilized.

AMENDATORY SECTION (Amending Order 1547, filed 10/1/80)

WAC 388-28-410 EFFECT OF RESOURCES ~~((AND INCOME))~~ ON FINANCIAL NEED—EXEMPT AND NONEXEMPT RESOURCES. When ~~((it))~~ a determination has been ~~((determined))~~ made that an applicant possesses a resource in accordance with the ~~((above))~~ considerations in WAC 388-28-400, such resources shall be classified as exempt or nonexempt in accordance with WAC 388-28-415 through 388-28-455.

AMENDATORY SECTION (Amending Order 1940, filed 1/28/83, effective 3/1/83)

WAC 388-28-415 EFFECT OF RESOURCES ~~((AND INCOME))~~ ON FINANCIAL NEED—EXEMPT RESOURCES. An applicant may possess and retain ~~((the following))~~ exempt resources and be eligible for public assistance. While the fact of ownership does

not make an applicant ineligible, the use of such properties to produce income (such as rental of a room in the home), or to meet the cost of an item included in the standard of need (such as wood on the home property ~~((which meets))~~ meeting the need for fuel) does affect financial need.

AMENDATORY SECTION (Amending Order 1547, filed 10/1/80)

WAC 388-28-420 EFFECT OF RESOURCES ~~((AND INCOME))~~ ON FINANCIAL NEED—REAL PROPERTY—HOME. (1) The applicant's home is an exempt resource subject to the conditions specified. There is no ceiling value on the home.

(2) A home is defined as real property owned and used by an applicant as a place of residence, together with a reasonable amount of property surrounding and contiguous thereto, including property normally considered and used as a part of a home, such as(;):

- (a) Yard and home garden space;
- (b) Road to get to the home;
- (c) Right of way to and land holding a water supply;
- (d) ~~((Out-buildings))~~ Outbuildings and land on which they are located serving a normal and useful function of the home, such as garage, woodshed, chicken house, barn, pasture for cow, etc. In this connection, the use of necessary land and buildings to produce self-consumed products ~~((as outlined in WAC 388-28-605))~~ is considered as a reasonable part of the home property;

(e) Land and buildings necessary to carry out the functions ~~((described in WAC 388-28-430(1)(c) and (1)(d)))~~ when such a plan is approved by the CSO.

Property in addition to that covered under subsections (2)(a) through (2)(e) of this section is considered under WAC 388-28-455.

(3) The home when used as a place of residence by the applicant or by his or her dependents is an exempt resource.

(a) "Dependents" as used in this section means spouse of the applicant and/or minor children and disabled sons or daughters.

(b) "Disabled sons or daughters" means one or more unmarried, natural or adopted, minor or adult sons or daughters with a medically-verified disability ~~((which))~~ significantly ~~((handicaps))~~ handicapping them in performing employment or homemaking activities and ~~((who are))~~ dependent on the applicant for their livelihood.

(4) When the home is not being used for residential purposes by the applicant or by his or her dependents, the property shall be considered as a nonexempt resource subject to the exceptions in subsections (4)(a) and (b) of this section.

(a) An applicant absent from his or her home for temporary visits is considered as continuing to reside in his or her home unless he or she expresses his or her intent to abandon the home as a residence.

(b) Effective ~~((6/12/80))~~ June 12, 1980, an applicant absent from his or her home for more than ~~((90))~~ ninety days is presumed to have abandoned the home for residential purposes, except when such absence is due to natural disaster, hospitalization, or other health reasons.

~~((it))~~ When such absence is over ~~((90))~~ ninety days, and there is cause to believe ~~((that))~~ the applicant will be unable to return to his or her home and the home is not occupied by his or her dependents, there shall be a rebuttable presumption ~~((that))~~ the home is a nonexempt resource when the following conditions are met.

~~((A))~~ (i) The individual specifies in writing ~~((that it is))~~ his or her intent not to return to the home and use ~~((it))~~ the home as his or her place of residence either for himself or herself, or for his or her dependents, or

~~((B))~~ (ii) For medical absences, the CSO administrator, with the cooperation of the medical consultant, shall contact the president of the local medical society and ask that three doctors, one of which may be the attending doctor, review the existing medical findings and history and provide the CSO with a statement signed by all three physicians that it is their professional belief and opinion ~~((that))~~ the individual, for health reasons, will either be able or unable to return to his or her home property. If the conclusion reached by the three physicians is not unanimous, this shall be so indicated.

In the event the evaluation from the three physicians indicates ~~((that))~~ it is their medical opinion the individual will be able to return to his or her home during his or her lifetime, the home property shall continue to be considered as exempt property.

In the event the evaluation from the three physicians indicates unanimously ~~((that))~~ it is their medical opinion the individual will be unable to return to his or her home during the remainder of his or her lifetime, the home, if not occupied by his or her dependents, shall be considered nonexempt property which can be made available to meet need.

The CSO administrator shall advise the president of the local medical society, as well as the physicians selected by the president, ~~((that))~~ the department will pay each physician participating in the review an amount not to exceed ~~((10))~~ ten dollars per case.

~~((C))~~ (iii) For absences resulting from natural disaster, the local office administrator determines ~~((that))~~ the residence is accessible and inhabitable. When a home that is determined inaccessible or uninhabitable could, in the judgment of the CSO administrator, become accessible and inhabitable with reasonable effort and expense to the applicant, ~~((it))~~ the home is presumed to be a nonexempt resource.

AMENDATORY SECTION (Amending Order 1840, filed 6/30/82)

WAC 388-28-430 EFFECT OF RESOURCES ~~((AND INCOME))~~ ON FINANCIAL NEED—PERSONAL PROPERTY EXEMPTIONS—CEILING VALUES—GENERAL ASSISTANCE. (1) The following personal property is an exempt resource for general assistance. There is no ceiling value on such property.

(a) Used and useful household furnishings and personal clothing. Household furnishings and personal clothing in storage shall be presumed to be not used and useful, but all other household furnishings and personal clothing shall be presumed to be used and useful and

both presumptions stand in the absence of evidence to the contrary.

(b) Personal property of "great sentimental value" may be exempted when the applicant establishes the circumstances and conditions (~~(which give it)~~) giving the personal property this value. When the intrinsic value is relatively high (stamp or coin collections, etc.), there may be need to review ~~((it))~~ the personal property carefully.

(c) Term and/or burial insurance for the use of the applicant or recipient.

(d) One cemetery plot for each member of an assistance household is exempt personal property. Any additional plots are nonexempt.

(2) The following items are ~~((exempt))~~ resources ~~((to the extent that the values of such items are))~~ which must be evaluated within the following maxima or ceiling values for general assistance~~((:))~~:

(a) The total value of cash, marketable securities, cash discount value of real estate or chattel mortgages and sales contracts, and any excess of values exempted under subsections (2)(b) and (c) of this section and any other resources not specifically exempted shall not exceed ~~(((\$1,500.00))~~ one thousand five hundred dollars for a single person, or ~~(((\$2,250.00))~~ two thousand two hundred fifty dollars for a family of two or more.

(b) Life insurance may have a cash surrender value not to exceed ~~(((\$1,500.00))~~ one thousand five hundred dollars considered as an exempt resource.

(c) Used and useful vehicles with an equity not exceeding the value of ~~(((\$1,500.00))~~ one thousand five hundred dollars or less is an exempt resource.

~~((3) For AFDC and RA, household furnishings and personal clothing essential for daily living are exempt resources without ceiling value. Such items which are in storage shall be presumed to be not essential for daily living but all other household furnishings and personal clothing shall be presumed to be essential for daily living and both presumptions stand in the absence of evidence to the contrary.~~

~~((4) For AFDC and RA the total value of cash, marketable securities, cash discount value of real estate or chattel mortgages, sales contracts, and burial plots, cash surrender value of life insurance and burial insurance and, excess value of vehicles, value of nonexempt property and any other resources not specifically exempted shall not exceed one thousand dollars regardless of family size.~~

~~((5)(a) For AFDC and RA one used and useful vehicle, with an equity value of \$1,500.00 or less is an exempt resource;~~

~~((b) Excess equity value of a used and useful vehicle and the equity value of other vehicles shall apply toward the limit in subsection (4) of this section.~~

~~((6) The following rules apply to all grant programs:~~

~~((a) Other personal property, such as tools, farm machinery, livestock, business equipment, and inventory, can be declared an exempt resource by the CSO on the basis of an agreed plan. The following conditions apply:~~

~~((i) The exempted property must either produce income which reduces the applicant's or recipient's need for public assistance, or aid in rehabilitating him or her~~

~~or his or her dependents by providing self-employment experience which can reasonably be expected to lead to full or partial self-support:~~

~~((ii) If stock, raw materials, or inventory of a business are exempted, any increase in their value must be examined to determine whether the increase is necessary to the health of the enterprise. Such increase shall not be used as a means of diverting funds which might reasonably constitute income to the recipient.~~

~~((b) Funds represented by values within the ceiling values are not used to determine financial need or to compute grants.~~

~~((c) Funds represented by values in excess of the maxima or ceilings are nonexempt; that is, they are used to determine financial need and to compute grants.~~

~~((d) All cash savings held by the applicant or held jointly with any other person shall be considered. Any funds on deposit, in hand or in any place from which cash may be drawn by the applicant is a cash fund. A cash fund includes a bank account, savings, funds held in trust for future use (when applicant can make withdrawals), savings bonds, advance insurance premium payments, interest, etc.~~

~~((e) A joint account shall be considered the property of the applicant or recipient since the entire amount is at his or her disposal, except when the applicant or recipient can show that all or a portion of the funds deposited within the joint account is derived from funds exclusively the other joint holder's and held and/or utilized solely for the benefit of that joint account holder. All funds within the joint account so verified shall not be considered actually available to the applicant or recipient.~~

~~((f) Real estate or chattel mortgages or sales contracts held by the applicant will be considered exempt resources in combination with the value of other exempt personal property, within the limitation allowed in subsections (2) and (5) of this section.~~

~~((g) The cash discount value of a mortgage or contract represents the value of the resource.~~

~~((h) Any payments on mortgages or contracts received by an applicant or recipient shall be considered income as specified in WAC 388-28-580.~~

~~((i) When the equity of another person in an unassignable policy held by an applicant can be established, the amount of such equity may be deducted in determining the applicant's holdings in insurance, provided that person holding the equity is named as beneficiary of the proceeds to the extent of such equity and without power or revocation by the insured.~~

~~((j) An insurance policy legally assigned belongs to the assignee and may not be regarded as the property of the insured. However, the assignment of a policy within two years prior to application or by a recipient must be evaluated as the transfer of a resource.~~

~~((k) A motor home is a totally nonexempt resource and its value is not applied to the ceiling values in this section. If it is the only residence of the household, it is considered to be the home and is a totally exempt resource.~~

~~((l) A motor home is a motor vehicle originally designed, reconstructed or permanently altered to provide facilities for human habitation.~~

~~(m) In determining the resource value of automobiles, the national automobile dealers association official used car guide shall be used. For automobiles listed in this guide "average loan" value in the current edition shall be presumed to be the resource value.~~

~~(n) In determining the resource value of recreational vehicles the Kelley bluebook R.V. guide shall be used. For vehicles listed in this guide "wholesale" value in the current edition shall be presumed to be the resource value.~~

~~(o) For vehicles not listed in these guides the method of determining the resource value shall be documented in the case record.~~

~~(p) The values listed in these guides can be overcome by positive evidence to the contrary. Such evidence shall be documented in the case record.~~

~~(q) The changes to resource limits for federally funded programs will be phased in by applying them when case actions are taken and/or when eligibility is determined or redetermined.)~~

~~(3) ((The rules in this section shall be effective April 1, 1982)) A motor home is a totally nonexempt resource and its value is not applied to the ceiling values in this section. If the motor home is the only residence of the household, it is considered to be the home and is a totally exempt resource.~~

~~(4) A motor home is a motor vehicle originally designed, reconstructed, or permanently altered to provide facilities for human habitation.~~

NEW SECTION

WAC 388-28-435 EFFECT OF RESOURCES ON FINANCIAL NEED—PERSONAL PROPERTY EXEMPTIONS—CEILING VALUES—AFDC AND RA. (1) Household furnishings and personal clothing essential for daily living are exempt resources without ceiling value. Such items in storage shall be presumed to be not essential for daily living, but all other household furnishings and personal clothing shall be presumed to be essential for daily living and both presumptions stand in the absence of evidence to the contrary.

(2) The total value of cash, marketable securities, cash discount value of real estate or chattel mortgages, sales contracts, and burial plots, cash surrender value of life insurance and burial insurance, and excess value of vehicles, value of nonexempt property, and any other resources not specifically exempted shall not exceed one thousand dollars regardless of family size. Possession of resources in excess of the maximum shall render the household ineligible.

(3) One used and useful vehicle with an equity value of one thousand five hundred dollars or less is an exempt resource.

(4) Excess equity value of a used and useful vehicle and the equity value of other vehicles shall apply toward the limit in subsection (2) of this section.

NEW SECTION

WAC 388-28-438 EFFECT OF RESOURCES ON FINANCIAL NEED—PERSONAL PROPERTY

EXEMPTIONS—ALL PROGRAMS. (1) Other personal property, such as tools, farm machinery, livestock, business equipment, and inventory, can be declared an exempt resource by the CSO on the basis of an agreed plan. The following conditions apply:

(a) The exempted property must either produce income reducing the applicant's or recipient's need for public assistance, or aid in rehabilitating him or her or his or her dependents by providing self-employment experience which can reasonably be expected to lead to full or partial self-support.

(b) If stock, raw materials, or inventory of a business are exempted, any increase in their value must be examined to determine whether the increase is necessary to the health of the enterprise. Such increase shall not be used as a means of diverting funds which might reasonably constitute income to the recipient.

(2) Funds represented by values within the ceiling values are not used to determine financial need or to compute grants.

(3) Funds represented by values in excess of the maxima or ceilings are nonexempt; that is, they are used to determine financial need and to compute general assistance grants. If the funds are in excess of the ceiling value for AFDC and refugee assistance, the applicant/recipient is ineligible.

(4) All cash savings held by the applicant or held jointly with any other person shall be considered. Any funds on deposit, in hand, or in any place from which cash may be drawn by the applicant, is a cash fund. A cash fund includes a bank account, savings, funds held in trust for future use (when applicant can make withdrawals), savings bonds, advance insurance premium payments, interest, etc.

(5) A joint account, or an account held for another, shall be considered the property of the applicant or recipient since the entire amount is at his or her disposal, except when the applicant or recipient can show that all or a portion of the funds deposited within the account is derived from funds exclusively the other holder's and held and/or utilized solely for the benefit of that account holder. All funds within the account so verified shall not be considered actually available to the applicant or recipient.

(6) The equity value in the cash discount value of a chattel mortgage or sales contract represents the value of the resource.

(7) Any payments on mortgages or contracts received by an applicant or recipient shall be considered income as specified in WAC 388-28-580.

(8) When the equity of another person in an unassignable policy held by an applicant can be established, the amount of such equity may be deducted in determining the applicant's holdings in insurance, provided the person holding the equity is named as beneficiary of the proceeds to the extent of such equity and without power or revocation by the insured.

(9) An insurance policy legally assigned belongs to the assignee and may not be regarded as the property of the insured. However, the assignment of a policy within two years prior to application or by a recipient must be evaluated as the transfer of a resource.

(10) In determining the resource value of automobiles, the national automobile dealers association official used car guide shall be used. For automobiles listed in this guide, "average loan" value in the current edition shall be presumed to be the resource value.

(11) In determining the resource value of recreational vehicles, the Kelley bluebook R.V. guide shall be used. For vehicles listed in this guide, "wholesale" value in the current edition shall be presumed to be the resource value.

(12) For vehicles not listed in these guides, the method of determining the resource value shall be documented in the case report.

(13) The values listed in these guides can be overcome by positive evidence to the contrary. Such evidence shall be documented in the case record.

(14) The changes to resource limits for federally funded programs will be phased in by applying them when case actions are taken and/or when eligibility is determined or redetermined.

AMENDATORY SECTION (Amending Order 1728, filed 12/4/81)

WAC 388-28-440 ACCUMULATION AND DEPLETION OF ALLOWABLE CASH RESOURCE RESERVES. (1) Recipients may spend their cash reserves and rebuild them with succeeding public assistance grants, with funds from other exempt sources, or other income which has been considered in computing financial need. ~~((They))~~ Recipients may place grants in accounts along with cash reserves and then spend out of those accounts during the month.

(2) Cash on hand may exceed the specified limits ~~((specified in WAC 388-28-430(2)(a) to the extent unexpended money which has))~~ for a maximum of thirty days if it has already been considered in computing financial need ~~((and from the public assistance grant is on hand within thirty days after its receipt))~~.

(3) FOR GENERAL ASSISTANCE ONLY, allowable cash reserves may be accumulated from nonrecurrent cash lump-sum sources, including the following:

- (a) Income tax refunds.
- (b) Inheritances.
- (c) Insurance benefits.
- (d) Gifts.
- (e) Prizes and awards.
- (f) Repayment of debts owed the recipient.
- (g) Proceeds from the sale of exempt property.
- (h) Social Security death benefits.
- (i) Indian per capita payments generated by tribally held land or business.

(4) IN GENERAL ASSISTANCE ONLY if a lump sum, when added to existing reserves, causes the resources to exceed allowable limits, the excess is newly acquired income to be treated in accordance with WAC 388-28-484.

(5) Recipients may not use the following types of one-time payments to accumulate resource reserves:

- (a) Earnings ~~((which are))~~ accrued over a period of time and received in one payment.
- (b) Payments ~~((which represent))~~ representing accumulated periodic benefits. Examples are Social Security

retirement and disability benefits, railroad retirement benefits, unemployment insurance benefits, and veterans benefits.

(6) If a lump sum is placed in trust for a recipient and is not under his or her control, the following rules apply:

(a) Funds kept in trust do not affect public assistance need.

(b) FOR GENERAL ASSISTANCE ONLY the trustee may release to the recipient an amount up to the allowable resource limit for the assistance unit less any amount of existing cash and marketable securities as of the date the lump sum was received. Such disbursement, if made within thirty days of the date the lump sum was received, is used to accumulate allowable reserves and does not affect public assistance need. This may be done once for each lump sum placed in trust.

AMENDATORY SECTION (Amending Order 1241, filed 9/23/77)

WAC 388-28-450 NONEXEMPT RESOURCES—EFFECT ON FINANCIAL NEED. ~~((Any resource, except those listed in WAC 388-28-420 and 388-28-430 as exempt, is a nonexempt resource.))~~

(1) The possession of a nonexempt resource by an applicant affects his or her financial need to the extent ~~((that))~~ the value of the resource decreases his or her need for public assistance. The value of such resource is deducted from the cost of the general assistance applicant's requirements for one month at time of application and each succeeding eligibility review. ~~((See WAC 388-28-481 for effect of nonexempt resources on continuing need.))~~ If the value of nonexempt resources exceeds one month's appropriate payment level plus additional requirements, the applicant is ineligible.

(2) For general assistance, the value assigned to such resources shall be the fair market value ~~((unless quick or forced sale value is otherwise specifically designated at the value))~~ minus legal encumbrances.

(3) For AFDC and RA, the value of nonexempt resources shall be the fair market value minus legal encumbrances. The fair market value shall be reassessed if the applicant provides acceptable evidence that a good faith effort has been made to sell the resource at the fair market value determined by the department and the value is less than the resource ceiling. If the total value of the nonexempt resource exceeds the maximum in WAC 388-28-435(2), the applicant is ineligible.

AMENDATORY SECTION (Amending Order 1940, filed 1/28/83, effective 3/1/83)

WAC 388-28-473 PROPERTY TRANSFERRED CONTRARY TO WAC 388-28-471 AND 388-28-472. (1) If a recipient transfers previously exempt property contrary to WAC 388-28-471 and 388-28-472 or if the proceeds from the transfer are used for purposes other than described in those rules, the value of the property transferred is considered available to meet need following effective date rules in WAC 388-33-135(3).

(2) ~~((It is presumed that the recipient had funds available to meet need from the first of the month following the date of transfer.))~~ The amount considered

available to meet need shall be either his or her equity in the ((~~quick-sale~~)) fair market value of the resource or the actual amount received, whichever is the greater. If the resource was a mortgage or conditional sales contract, the value of the equity transferred shall be the amount considered available to meet need. The transfer affects eligibility according to WAC 388-28-484(2)(b) for AFDC and refugee assistance and the transfer affects eligibility according to subsections (3), (4), and (5) of this section for general assistance.

(3) If the grant is adjusted before the first of the month following transfer:

(a) Assistance is continued when the amount considered available from subsection (2) of this section and other income available during the month amounts to less than one month's requirements;

(b) Assistance is suspended when the amount considered available from subsection (2) of this section and other income available in the next two months is less than two months' requirements;

(c) General assistance is terminated when the amount considered available from subsection (2) of this section and other income available in the next two months is more than two months' requirements. The future period of ineligibility is determined using current requirements and the method described in WAC 388-28-460.

(4) If the grant was not adjusted ((~~the first of the month following transfer~~)) following effective date rules in WAC 388-33-135(3), partial or total ineligibility exists and the amount of overpayment is determined.

(a) The grant is continued if the amount considered available from subsection (2) of this section is completely liquidated as overpayment.

(b) The grant is suspended or terminated when the total amount considered available from subsection (2) of this section is not liquidated by the overpayment. The amount considered available after figuring the overpayment is used to determine future period of ineligibility using the rules in subsection (3)(b) or (3)(c) of this section as appropriate. The first of the month the assistance payment can be adjusted is used to establish the beginning of the future period.

(5) The rules in WAC 388-28-463 and 388-28-464 apply to transfers under this section.

AMENDATORY SECTION (Amending Order 1940, filed 1/28/83, effective 3/1/83)

WAC 388-28-484 TREATMENT OF NEWLY ACQUIRED NONEXEMPT INCOME AND RESOURCES. (1) Income affects the grant amount according to the provisions of WAC 388-28-483.

(2) When the value of the income is taken into account in the assistance payment as specified in WAC 388-28-483, the following rules apply:

(a) If the income value plus any other income amounts to less than the payment level plus authorized additional requirements and is recurrent or nonrecurrent, assistance is continued in the amount of the difference.

(b) Effective January 1, 1982, for AFDC and refugee assistance, when the assistance unit's income after applicable disregards exceeds the need standard, plus authorized additional requirements, the unit shall be ineligible for assistance for the number of full months derived by dividing this total income by the need standard plus authorized additional requirements.

(i) Any income remaining after this calculation is treated as income received in the first month following the period of ineligibility.

(ii) The period of ineligibility may be shortened when the following conditions are met:

(A) A life-threatening circumstance exists, and

(B) The income causing the period of ineligibility has or will be expended in connection with the life-threatening circumstance, and

(C) Until the time of the life-threatening circumstance, the income must have been used to meet essential needs, and

(D) Currently the assistance unit must have no other income or resources sufficient to meet the life-threatening circumstances.

(c) If the nonrecurrent income equals or exceeds one month's payment level plus authorized additional requirements for general assistance, but is less than two months' payment level plus authorized additional requirements minus other income, the recipient is ineligible for a grant from the effective date specified in WAC 388-28-483, and his or her grant is suspended. The suspension period is determined exactly, that is, up to the date of the absorption of the income.

(d) If the income is recurrent and equal to or in excess of one month's payment level plus authorized additional requirements minus other income the recipient is ineligible from the effective date specified in WAC 388-28-483 and the grant is terminated, except for persons in institutions other than nursing homes as provided in WAC 388-34-160.

(e) For general assistance if the income is recurrent or nonrecurrent and its value is in excess of two months' payment level plus authorized additional requirements minus other income, the recipient is ineligible from the effective date specified in WAC 388-28-483 and the grant is terminated. Ineligibility shall continue for two months. The period of ineligibility, however, may be reduced if the applicant has verifiable expenses such as medical care, unforeseen disaster or other changes in circumstances which make it impossible for him or her to live on his or her resource for the two-month period of ineligibility. The eligibility of a former recipient who reapplies shall be determined on the same basis as a new applicant.

(3) If income is not taken into account in assistance payments but is subsequently discovered, an overpayment shall be established according to chapter 388-44 WAC.

(4) If a general assistance recipient has been determined to be ineligible for a current or future period of time, and his or her grant will be suspended or terminated for such period of time, due to either newly acquired income, or transfer of property, and is in need during

such period of ineligibility, assistance may be granted within the limits of the rule in WAC 388-28-464.

(5) A person acquiring income during suspended status shall be treated as a recipient in terms of eligibility, not as an applicant.

(6) Rules and procedure in chapter 388-44 WAC are followed in respect to overpayment.

(7) An applicant or recipient whose nonexempt gross income exceeds one hundred fifty percent of the standard of need for the appropriate household size plus additional requirements authorized for that assistance unit, is not eligible for AFDC or refugee assistance from the date specified in WAC 388-28-483. The income of all members of the assistance unit and the income of natural, adoptive, or stepparents of children in the assistance unit residing in the same household, shall be considered in this test.

(a) Advance earned income credits are not counted in the one hundred fifty percent test.

(b) Gross income shall be defined as all income not specifically exempted by rule or regulation before applicable program disregards are applied.

(c) If the assistance unit's gross income exceeds one hundred fifty percent of the need standard plus authorized additional requirements but the net income does not exceed one hundred percent of the basic payment level plus authorized additional requirements, the assistance unit shall be ineligible for one full month.

(d) Net income shall be defined as gross income less applicable disregards and deductions for which the applicant or recipient is eligible.

(8) Income which has been taken into account in computing financial need according to subsection (2) of this section if retained by((:

(a)) a GAU recipient does not affect his or her eligibility unless the amount retained at the time of the next periodic review exceeds the exempt property holdings permitted for an applicant. In this event the rule on nonexempt resources or income pertaining to an applicant are applied.

~~((b) An AFDC or RA recipient does not affect his or her eligibility unless the amount retained at the time of the next monthly status report exceeds the exempt property holdings permitted for an applicant or recipient.))~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-28-455 NONEXEMPT RESOURCES—REAL PROPERTY—NONEXEMPT.

WSR 84-07-020

ADOPTED RULES

LIBRARY COMMISSION

[Order 84-1—Filed March 14, 1984]

Be it resolved by the Washington State Library Commission, acting at the Timberland Regional Library Service Center, 415 Airdustrial Way S.W., Olympia, WA, that it does adopt the annexed rules relating to

amending rules concerning the state agency's criteria for the adequacy of library service to the public, adopting rules on the establishment of the Washington Library Planning and Development Committee, and repealing rules on the establishment of the WLN executive council.

This action is taken pursuant to Notice No. WSR 84-04-089 filed with the code reviser on February 1, 1984. 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 Library as authorized in RCW 27.04.060.

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 March 8, 1984.

By Roderick G. Swartz
Secretary

NEW SECTION

WAC 304-12-020 WASHINGTON LIBRARY PLANNING AND DEVELOPMENT COMMITTEE CREATED—APPOINTMENTS—TERMS—EXPENSES. A Washington library planning and development committee is hereby created which shall consist of seven persons appointed for two year terms. Four persons shall be appointed by the Washington state library commission. The commission shall confirm the remaining three members who shall be designated by the Washington library association executive board, and one of whom shall be a library trustee and a member of the Washington library trustees association. Initial terms shall be determined by lot following appointment, with three persons to serve one year and four persons to serve two years. Thereafter, three members shall be appointed in June of each odd-numbered year; four members shall be appointed in June of each even-numbered year. Members may be reappointed; however, no member shall serve more than two terms consecutively. Vacancies shall be filled by appointment for the unexpired term. The committee members shall serve without compensation, but will be reimbursed for subsistence, lodging, and travel expenses for committee meetings and approved business of the committee in accordance with the provisions of the Washington state travel regulations.

NEW SECTION

WAC 304-12-025 WASHINGTON LIBRARY PLANNING AND DEVELOPMENT COMMITTEE—DUTIES. (1) The committee shall act as an advisory body working in conjunction with state library staff to effect a sound basis for long-range state-wide library and information service planning activities. It shall advise in designing cooperative programs to further the development of the state-wide library information services network.

(2) The committee will identify issues, seek solutions, and make recommendations to the Washington state library commission, to the state's professional associations, and to others when appropriate.

(3) The committee will establish a standing subcommittee called the Washington state advisory council on libraries to advise it on expenditures of federal moneys. It may also establish other subcommittees and task forces, as is deemed necessary in the course of its work to accomplish various long-term and short-term goals.

AMENDATORY SECTION (Amending Order 1-75, filed 7/21/75)

WAC 304-12-125 GENERAL STATEMENT OF CRITERIA. (1) In a free and open society the mission of libraries is to be aware of individuals' need for knowledge and personal growth and to respond to those needs by providing access to the wisdom, experience and imagination of mankind.

(2) The state agency's criteria for determining the adequacy of ~~((public))~~ library service ~~((s to geographical areas and for groups of persons in the state are those criteria of the American Library Association as described in Minimum Standards for Public Library Systems, 1966, and such additional standards as may be adopted by the Washington Library Association.))~~ to the public are:

(a) That ninety percent of the requests by library users for specific titles is available through their library in a manner that is satisfactory to the users.

(b) That ninety percent of the requests by library users for works by a particular author or creator is available through their library in a manner that is satisfactory to the users.

(c) That ninety percent of the requests by library users for materials on a specific subject is available through their library in a manner that is satisfactory to the users.

(d) That ninety percent of the requests by library users for information is answered through their library in a manner that is satisfactory to the users.

(e) That ninety percent of the people in a library's service area is aware of the kinds of services provided by their library.

(f) That the percentage of use by each demographic group as defined in the Library Services and Construction Act regulations is the same, +/- fifteen percent, based on the highest percentage of use.

The determination of adequacy is made by comparing these criteria with annual reports which by law must be submitted to the state agency by each public library.

In allocating library services and construction funds, special consideration will be given to library programs, research and projects which:

~~((a))~~ (i) Serve disadvantaged persons residing in urban or rural areas with high concentrations of low-income families and to areas with high concentrations of persons with limited English speaking ability;*

~~((b))~~ (ii) Serve persons residing in sparsely settled areas of the state which are distant from adequate public library facilities;

~~((c))~~ (iii) Serve physically handicapped persons (including the blind or other visually handicapped);

~~((d))~~ (iv) Serve inmates, patients, or residents of penal institutions, reformatories, residential training schools, orphanages, residential schools for handicapped persons, and other general or special institutions or hospitals operated or substantially supported by the state;

~~((e))~~ (v) Serve persons residing in areas of the state having no local public library service;

~~((f))~~ (vi) Extend the range and improve the qualities of career development opportunities for people of all ages without regard to educational level;

~~((g))~~ (vii) Lead to the improvement and efficient management of library resources, both human and material, and which provide to all people maximum accessibility to those resources(-);

~~((h))~~ (viii) Strengthen metropolitan public libraries which serve as national or regional resource centers.

Footnote: *In accord with requirements of the Library Services and Construction Amendments of 1970 (Public Law 91-600) and the Code of Federal Regulations (45 CFR Part 130) priority will be given to ~~((a-))~~ (i) above, i.e. programs or projects which serve urban and rural areas with high concentrations of low-income families and to programs and projects which serve areas with high concentrations of persons with limited English-speaking ability (as defined by PL 93-380, Education Amendments of 1974).

These areas are defined as those areas with low-income families or with concentrations of non-English speaking persons as reported in U.S. Bureau of Census 1970 PC (1)-C Series: General Social and Economic Characteristics. Low-income families are defined as those with annual incomes as designated by federal agencies. This information will be updated through publications of the Washington state office of economic opportunity.

Programs and priorities will change as needs in the state change or as revised federal regulations and/or new federal legislation may require.

Where applicable, an evaluation component will be a part of each project.

Where applicable, each grant request should contribute toward the achievement of the existing Washington state plan for library development, now called the Proposed Regional Library Plan for Washington by Charles Bowerman, 1950, or any plan which supersedes this existing plan.

Programs may also be developed across state lines when such inclusion meets the standards set forth and will contribute to the basic objectives of library development in Washington state. Interstate compact legislation facilitates such programs.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 304-12-015 SERVICES GRANT PROGRAMS IN WASHINGTON—PRINCIPLES.

AMENDATORY SECTION (Amending Order 1-80, filed 1/11/80)

WAC 304-25-040 NETWORK ORGANIZATION. (1) The network members shall consist of autonomous, geographically dispersed libraries, library systems, and related organizations and institutions which have accepted by written agreement the purposes of the network and the responsibilities and rights of membership.

(2) ~~((The library service area shall participate in the determination of network programs, services and activities through representation on the executive council:~~

~~(3) An executive council shall be composed of representatives from the network membership, elected by and from the library service areas, and shall have the responsibilities and rights outlined in WAC 304-25-100.~~

(4)) The Washington state library, shall provide assistance for the efficient, effective, and coordinated development and utilization of the network components.

REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) WAC 304-25-090 WLN EXECUTIVE COUNCIL.

(2) WAC 304-25-100 WLN EXECUTIVE COUNCIL, RESPONSIBILITIES AND RIGHTS.

**WSR 84-07-021
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**
[Filed March 14, 1984]

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 WAC 296-200-300 procedures for notice of infraction; 296-200-310 service on employee of a contractor; 296-200-320 mailing copy of notice of infraction to contractor; and 296-400-300 procedures for notice of infraction. These four rules are new rules that are required by the changes to the contractor registration law, chapter 18.27 RCW; and the plumber certification law, chapter 18.106 RCW, enacted in 1983. They set out the procedures the department will follow in issuing a notice of infraction and notifying the contractor or plumber that they have received a notice of infraction. The rules also clarify, for the benefit of the district courts and contractors, which of the justice court traffic infraction rules (JTIR) apply to contractor and plumber notice of violation;

that the agency will at 9:30, Wednesday, April 25, 1984, in the Conference Room, General Administration Building, 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 May 25, 1984.

The authority under which these rules are proposed is RCW 18.27.040, 18.27.200 and 18.106.020.

The specific statute these rules are intended to implement is RCW 18.27.040, 18.27.200 and 18.106.020.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 10, 1984.

Written or oral submission may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Robert C. Cronkrite, Administrator
Electrical Inspection, Plumber Certification
and Contractor Registration Sections
300 West Harrison, Room #509
Seattle, Washington 98119
(206) 281-5573

This notice is connected to and continues the matter in Notice No. WSR 84-04-072 filed with the code reviser's office on February 1, 1984.

Dated: March 14, 1984
By: Sam Kinville
Director

**WSR 84-07-022
EMERGENCY RULES
DEPARTMENT OF FISHERIES**
[Order 84-18-Filed March 14, 1984]

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

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 this regulation is necessary until permanent regulation modifications take effect.

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 March 14, 1984.

By Gary C. Alexander
for William R. Wilkerson
Director

WSR 84-07-024
PROPOSED RULES
DEPARTMENT OF
GENERAL ADMINISTRATION
[Filed March 15, 1984]

NEW SECTION

WAC 220-57-16000D COLUMBIA RIVER. Notwithstanding the provisions of WAC 220-57-160, effective March 16 through March 31, 1984, bag limit A is in effect for those waters of the Columbia River downstream from the Interstate 5 Bridge to a line running true north and south through Buoy 10.

WSR 84-07-023
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 84-17—Filed March 15, 1984]

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

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 coastal razor clam stocks are in need of protection due to high mortality from parasitic infection, and this interim regulation is necessary while permanent regulations are being promulgated.

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 March 14, 1984.

By Gary C. Alexander
for William R. Wilkerson
Director

NEW SECTION

WAC 220-52-03000B RAZOR CLAMS. Notwithstanding the provisions of WAC 220-52-030, effective immediately until further notice it is unlawful to take, dig for or possess razor clams taken for commercial purposes from the detached Willapa Harbor spits lying north of the Leadbetter Channel, west of Ellen Sands, and south of the Willapa Bay ship channel.

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 chapter 236-47 WAC, state purchasing division, which sets forth the rules and regulations applicable to the acquisition, warehousing and distribution of federal surplus property by, through, or under the authority delegated by the state purchasing division;

that the agency will at 2:00 p.m., Tuesday, June 5, 1984, in the Conference Room, First Floor, General Administration Building, 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 39.32 RCW.

The specific statute these rules are intended to implement is RCW 39.32.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 5, 1984.

Dated: March 14, 1984
By: Keith A. Angier
Director

STATEMENT OF PURPOSE

The Department of General Administration, through its state purchasing division, is adding a new chapter to the state purchasing division rules dealing with acquisition, warehousing and distribution of federal surplus property to all eligible donees in the state. This WAC, when approved, will become the state of Washington plan of operation to be filed with the Federal Government, General Services Administration.

The title of the proposed new WAC is chapter 236-47 WAC, state purchasing division, dealing solely with the operation of the state's purchasing system through its surplus property section, as administered by the Department of General Administration, state purchasing division.

Statutory authority for these rules rests in chapter 39.32 RCW and more specifically, in RCW 39.32.060.

The purpose of this new section is to implement new language supporting a legislative mandate and to meet a federally imposed mandate from GSA for a approved state plan of operation.

The agency contact person responsible for drafting and implementation of these rules is Sam Reid, 216 General Administration Building, AX-22, Olympia, Washington, telephone number 753-6461.

The organization proposing these new rules is the Department of General Administration, state purchasing division.

No agency recommendation or comments.

This state of Washington plan of operation is required by 40 U.S.C. § 484(j).

Chapter 236-47 WAC
DIVISION OF PURCHASING

WAC

236-47-001	Purpose.
236-47-002	Authority.
236-47-003	Designation of the state agency.
236-47-004	Statement of policy.
236-47-005	Eligibility.
236-47-006	Terms and conditions.
236-47-007	Compliance and utilization.
236-47-008	Financing and service charges.
236-47-009	Inventory controls and accounting systems.
236-47-010	Return of donated property.
236-47-011	Nonutilized donable property.
236-47-012	Audit.
236-47-013	Consultation with advisory bodies and private groups.
236-47-014	Cooperative agreements.
236-47-015	Forms.
236-47-016	Records retention.
236-47-017	Liquidation.

NEW SECTION

WAC 236-47-001 **PURPOSE.** The purpose of this chapter is to set forth rules and regulations applicable to the acquisition, warehousing, and distribution of federal surplus property by, through, or under the authority delegated by the state purchasing division. This chapter constitutes the state of Washington plan of operation required by 40 U.S.C. § 484 (j) and 41 C.F.R. § 101-44.202. (Exhibit 12).

NEW SECTION

WAC 236-47-002 **AUTHORITY.** The director, department of general administration, state of Washington, is authorized by RCW 39.32.010 through 39.32.060, to acquire, warehouse, and distribute surplus property to all eligible donees in the state. Authority is granted under RCW 39.32.020 to enter into cooperative agreements (Exhibit 1).

Prior to submission of this plan to the administrator of general services administration (GSA), general public notice of the proposed plan was published for a period of sixty calendar days and interested parties were given a period of thirty calendar days in which to submit comments. These comments, as well as the relative needs and resources of all public agencies and other eligible donees, were considered in developing the plan of operation.

NEW SECTION

WAC 236-47-003 **DESIGNATION OF THE STATE AGENCY.** The plan shall be administered by the property redistribution office (PRO), material management center, department of general administration. This office has complete responsibility and authority to carry out the requirements of acquiring, warehousing, and distributing federal surplus property in the state of Washington pursuant to the provisions of the Federal Property and Administrative Services Act of 1949, as amended. This office is supervised by the surplus commodities supervisor for state/federal surplus property. Staffing, structure, and organizational status are shown in Exhibit 2.

NEW SECTION

WAC 236-47-004 **STATEMENT OF POLICY.** The state agency operates a "want list" oriented system to serve eligible donees and will aim for direct shipment of allocated items from the holding agencies to the donee's place of intended use. Donees are encouraged to submit a listing of items needed. The state agency employees will be guided by these requests in their search and selection of property. This equipment will be distributed on the basis of need, resources, and ability to utilize the property.

Small miscellaneous items will be available from the distribution center, eight hours per day, five days per week. Bulletins are mailed to all donees listing property available in the distribution center. They are mailed on Fridays to provide equal opportunity for all donees on Monday to telephone their requests.

The state agency will recommend to GSA the certification of donee screeners which are qualified and required in accordance with FPMR 101-44.116.

The state agency will make distribution of available property to eligible organizations in the state on a fair and equitable basis determined by their relative needs, resources, and ability to utilize the property. Elements of these are as follows:

- (1) Relative needs:
 - (a) Interest and expression of need on the part of the donee in the property available;
 - (b) Type and quantity of property received by donee to date;
 - (c) Economic condition of agency, activity, or institution;
 - (d) Critical or urgent need;
 - (e) Geographic location (urban, suburban, or rural).
- (2) Relative resources:
 - (a) Availability and sources of funds (grants, donations, taxes);
 - (b) Equipment availability;
 - (c) Alternate resources available.
- (3) Ability to utilize:
 - (a) Ability of the donee to select and remove property from the distribution center or federal activity on a timely basis;
 - (b) Contemplated length of time and frequency of use;
 - (c) When item can be put in use;
 - (d) Ability to repair or maintain property.

Where competing requests are received for property items, the state agency will make a determination as to the donee based on the evaluation of the criteria above.

Donees which suffer or experience a loss of property due to a local disaster such as fire, flood, tornado, etc., will be given a temporary priority for all requested property. Special efforts will be made to locate and distribute needed property to them.

NEW SECTION

WAC 236-47-005 **ELIGIBILITY.** The state agency will contact and instruct all known potential donees in the state on the procedures to follow in establishing their eligibility to participate in the surplus property program. Contacts will be made by letter, telephone calls, meetings and conferences with the groups listed below, supplemented when necessary by news releases and informational bulletins.

(1) In establishing a listing of the potential donees the state agency will use the standards and guidelines set forth in FPMR 101-44.207 as well as the following sources:

- (a) Public agencies:
 - (i) Listings of cities and towns;
 - (ii) Listings of counties, judiciary, state departments, divisions, councils, commissions, institutions, etc.;
 - (iii) Listings of local departments, divisions, commissions, councils, etc.
- (b) Nonprofit tax-exempt units:
 - (i) State departments and others for listings of all local units approved or licensed by them;
 - (ii) Existing listings of units now eligible to participate in the surplus property program;
 - (iii) Inquiries, letters, telephone calls, etc., received relative to eligibility.
- (2) As a condition of eligibility each unit will be required to file with the state agency:
 - (a) An Application for Eligibility signed by the chief executive/administrative officer accepting the terms and conditions under which the property will be transferred.
 - (b) A written authorization signed by the chief executive/administrative officer of the donee activity, or a resolution of a governing board designating one or more representatives to act for the applicant, obligate any necessary funds and execute issue sheets.
 - (c) An Assurance of Compliance in accordance with GSA regulations and requirements indicating acceptance of the civil rights law which states they will not discriminate on the basis of race, color, national origin, sex, age, or handicap.
 - (d) The legal name of applicant, address, and telephone number and their status as a public agency or nonprofit tax-exempt educational or public health unit.
 - (e) Proof of tax exemption under Section 501 of the Internal Revenue Code of 1954 (for nonprofit units only).
 - (f) Proof that the applicant is approved, accredited, or licensed in accordance with FPMR 101-44.207.
 - (g) Details and scope of their program including different activities and functions.
 - (h) Listing as to the types and kinds of equipment, vehicles, machines, or other items needed.

(i) Financial information to help in evaluating their relative needs and resources.
 Eligibility approvals of all skilled nursing homes, intermediate care facilities, alcohol and drug abuse centers, programs for older individuals, and any other programs that are certified, approved, and/or licensed will be updated each year. All other approvals of eligibility will be updated every three years.

NEW SECTION

WAC 236-47-006 TERMS AND CONDITIONS. As a condition of eligibility, the donee will be required to file an application for eligibility with the state agency. Each form must be signed by the chief executive/administrative officer of the donee organization agreeing to the requirements prior to the donation of any surplus property. The certifications and agreements, and the terms, conditions, reservations and restrictions are printed on this document and on the reverse side of each state agency warehouse issue sheet and invoice (Exhibit 3).

The state agency will impose the statutory requirement that all property acquired by donees must be placed into use within one year of donation and be used for one year thereafter.

Following are periods of additional restriction established by the state agency:

(1) All passenger motor vehicles and items with a unit acquisition cost of three thousand dollars or more – an additional six-month period of restriction will be added, making a total of eighteen months from the date the property is placed in use.

(2) Aircraft (except combat-type) and vessels (fifty feet or more in length) with a unit acquisition cost of three thousand dollars or more – a total of sixty months from the date the property is placed in use. Such donations shall be subject to the requirements of the conditional transfer document (Exhibits 4 and 5).

(3) Aircraft (combat-type) – restricted in perpetuity. Donations of combat-type aircraft shall be subject to the requirements of a conditional transfer document (Exhibit 6).

When considered appropriate, the state agency may impose such terms, conditions, reservations, and restrictions as it deems reasonable on the use of donable property other than passenger motor vehicles or items with a unit acquisition cost of three thousand dollars or more.

The state agency will impose on the donation of any surplus item of property, regardless of unit acquisition cost, such conditions involving special handling or use limitations as the general services administration may determine necessary because of the characteristics of the property.

The state agency may amend, modify, or grant release of any term, condition, reservation, or restriction it has imposed on donated item of personal property.

NEW SECTION

WAC 236-47-007 COMPLIANCE AND UTILIZATION. At least once during the period of restriction, state agency personnel will review all passenger motor vehicles and issued items with an original acquisition cost of three thousand dollars or more to determine that these items are being utilized in accordance with the purposes for which acquired. Review will consist of physical inspections and written certification or utilization of property by donees.

Also during the physical review, the state agency representative will insure that the donee is complying with any special handling conditions or use limitations imposed on items of property by GSA in accordance with FPMR 101-44.108. The review will include a survey of donee compliance with the statutory requirement that all items of property acquired by the donee since the last utilization survey have been placed into use within one year of acquisition and used for one year thereafter. Written reports on utilization and compliance review will be made and placed on file.

The state agency shall provide adequate assurance that they will initiate appropriate investigations of alleged fraud in the acquisition of donated property or misuse of such property. The FBI and GSA will be notified immediately of any cases involving alleged fraud. Further, GSA shall be advised of any misuse of donated property. The state agency will take necessary actions to prosecute cases of fraud or misuse and will assist GSA and other federal and state agencies in investigating such cases.

All passenger motor vehicles and all items having an acquisition cost of three thousand dollars or more will be identified at the distribution center by a blue stock tag. Separate warehouse issue sheets will be

prepared for each of these items and will include the following statement:

NOTE: Compliance Item
 See Terms and Conditions on the reverse side of this form

All passenger motor vehicles registered by the department of licensing will show the state agency as lien holder. When the vehicle has been used in compliance with the terms and conditions, and eighteen months of use have expired, the state agency will release the title to the donee.

NEW SECTION

WAC 236-47-008 FINANCING AND SERVICE CHARGES. A revolving fund established by legislative action finances the acquisition and distribution of federal surplus property and is designed to maintain a working capital reserve to cover one year of operational expenses. These reserve moneys are invested in interest-bearing accounts and certificates as authorized by state law.

To maintain the revolving fund, service charges are assessed at a rate designed to cover all direct and indirect costs involved in acquiring and distributing federal surplus property. Emphasis will be placed on keeping the service charge to a minimum but at the same time providing the necessary service to donees and operating the agency on a sound financial basis. Factors considered in applying service charges are: Original acquisition cost, present value, screening cost, quantity, condition, desirability of property, transportation cost, loading and unloading cost, and administrative costs. Service charge funds may be used to improve or acquire office and warehouse facilities and to purchase necessary equipment and supplies to repair and rehabilitate equipment and to purchase replacement parts.

When the working capital reserve reflects an insufficient or excessive amount, service charges will be adjusted accordingly.

As a general guide and based on the listed factors and the following exceptions, the following schedule will be used in determining service charges:

<u>Percent</u>	<u>Acquisition Cost</u>
0-30	\$ 0.00 – 200.00
0-25	\$ 201.00 – 2500.00
0-15	\$ 2501.00 – 10000.00
0-7.5	\$ 10001.00 – 25000.00
0-3 (not to exceed \$5000.00)	above \$25001.00

EXCEPTIONS.

The following exceptions to the above schedule have been developed to address two important areas which are frequently encountered. These two areas are incorrect condition code assignment and acquisition cost. Corrections of condition code or adjustment of acquisition costs will be coordinated with the GSA regional office.

Condition Code – When an obviously incorrect condition code has been assigned, the correct code will be used for discount purposes.

Acquisition Cost – When an incorrect acquisition cost has been detected, there will be an adjustment for service charge purposes which will reflect the correct acquisition cost. This figure will be assigned by research of available records for similar equipment or supplies, including federal stock/pricing manuals.

Special or extraordinary costs may be added to the service charge as follows:

(1) **Rehabilitated Property** – Direct costs for rehabilitating property will be added to the service charge.

(2) **Overseas Property** – Additional direct costs for returning the property may be added.

(3) **Long-haul Property** – Charges for major items with unusual costs may be added. Any such costs which are anticipated will be discussed with the donee prior to shipment.

(4) **Special Handling** – An additional charge may be made for dismantling, packing, crating, shipping, delivery, and other extraordinary handling charges.

(5) **Screening** – Extraordinary costs incurred in screening property may be added.

Minimum service charges are assessed in cases where the state agency provides document processing only and no other direct costs are involved. Based on an analysis of state agency expenses, where direct transfers of property to eligible donees are made, the service charge will be discounted approximately twenty-five percent for locating and screening the material, and ten percent for direct pickup by the donee,

based on the service charge that would have been assessed if the property had been transferred from the state agency distribution center.

NEW SECTION

WAC 236-47-009 INVENTORY CONTROLS AND ACCOUNTING SYSTEMS. Inventory Control.

The following actions will be the responsibility of the state agency in acquiring items for the distribution center inventory and subsequent reallocation to donees.

Immediately upon receipt, property is moved into a receiving area for check-in. Shipping documents and the applicable S.F. 123 and its attachments are used to check and identify property. Overage and shortage reports, and supplemental S.F. 123's will be prepared in accordance with the requirements of the Federal Property Management Regulations (FPMR) 101-44.115 and mailed to the GSA regional office. Upon verification of the description, condition, and quantity, a stock tag is prepared and attached to the commodity with the following data:

- Allocation number.
- Item number.
- Unit acquisition cost.
- Description, including serial number if applicable.
- Unit of measure.
- Unit service and handling charge.

Following verification of receiving information, individual stock record cards are prepared on all items having an individual acquisition cost of five dollars or more. All actions, including receipt, issue and inventory status, are recorded on this card. The stock record card will be retained on file for not less than three years after the property has been issued.

A complete physical inventory will be taken annually of all material in possession of the state agency. Shortages and overages are listed on the annual inventory report which is used to record inventory adjustments and must be approved by the supervisor before posting to stock cards. Adjustments are made only when all reasonable efforts have been exhausted to determine the reason for variance. A statement explaining the variances will be included in the corrected inventory report.

Accounting Systems.

A state approved double entry accounting system will be used. It will include a chart of accounts, a general ledger with accounts for all assets, liabilities, income and expense, and journals for all original record of transactions. It will identify and separately account for funds accumulated from service charges. Monthly and year-end reports will be provided for management visibility and program control.

NEW SECTION

WAC 236-47-010 RETURN OF DONATED PROPERTY. When a determination has been made that property has not been put into use by a donee within one year from the date of receipt of the property or has not used the property for one year thereafter under terms and conditions of the application for eligibility, if the property is still usable the donee must:

- (1) Return the property at its own expense to the state agency distribution center. Property returned by a donee will be received into inventory stock control for reissuance to other donees; or
- (2) Retransfer the property to another eligible donee as directed by the state agency; or
- (3) Make such other disposal as the state agency may direct.

The state agency will periodically emphasize this utilization requirement when corresponding and meeting with donees and when surveying the utilization of donated property at donee facilities.

NEW SECTION

WAC 236-47-011 NONUTILIZED DONABLE PROPERTY. All property in the possession of the state agency for six months which cannot be utilized by eligible donees shall be reported to GSA for disposal authorization in accordance with FPMR 101-44.205. In accordance with this regulation the state agency shall:

- (1) Transfer the property to another state agency or federal agency; or
- (2) Sell the property by public sale; or
- (3) Abandon or destroy the property.

In the event of disposal by transfer to another state agency or by public sale, the state agency may seek such reimbursement as is authorized in accordance with FPMR 101-44.205.

NEW SECTION

WAC 236-47-012 AUDIT. An internal audit of the state agency will be conducted by the department of general administration annually.

A fiscal audit and a performance review (external audit) will be conducted every two years by the state auditor's office in accordance with normal audit procedures for a public agency. The fiscal audit and the performance review will cover the conformance of the state agency with the state plan of operation and the requirements of FPMR 101-44.202. Copies of all audits will be made available to GSA, with a full report of corrective actions taken with respect to any exceptions or violations.

GSA representatives shall review state agency operations periodically and may, for appropriate reasons, conduct its own audit of the state agency following due notice to the governor of the reasons for such audit. Financial records and all other books and records of the state agency shall be made available to all authorized federal activities.

NEW SECTION

WAC 236-47-013 CONSULTATION WITH ADVISORY BODIES AND PRIVATE GROUPS. An advisory board will be established representing both public and nonprofit donee agencies, institutions, and organizations and will be comprised of donee representatives from the various geographic locations of the state. The supervisor of the property redistribution office (PRO) will act as chairperson.

The board will meet annually or at the discretion of the chairperson. The membership may fluctuate to fully meet the interests of eligible activities in the state. The minutes of the meetings will be used to report on the donation program to the groups concerned, and the board will solicit expressions of need and interest from eligible donees so that the state agency and GSA may be advised of such requirements, including requirements for specific items of property.

Additionally, state agency staff will speak at meetings and public and private groups representing donee activities to explain the program, encourage participation and to obtain expressions of need and interest for surplus property.

NEW SECTION

WAC 236-47-014 COOPERATIVE AGREEMENTS. The property redistribution office of the state of Washington is authorized to enter into cooperative agreements through and by the director of the department of general administration with GSA for use of property, facilities, personnel, and services, with or without payment or reimbursement, for use by the state agency of any surplus personal property in its possession subject to conditions imposed by GSA. It is the desire of the agency to continue, renew, or enter into such agreements authorized under Section 203(n) of the act.

NEW SECTION

WAC 236-47-015 FORMS. Application for eligibility (Exhibit 7).

- Assurance of compliance (Exhibit 8).
- Resolution (Exhibit 9).
- Request for surplus personal property (donee want card - SASP-117) (Exhibit 10).
- Donee identification card (Exhibit 11).
- Copy of terms, conditions, reservations, and restrictions on reverse side of warehouse issue/invoice document (Exhibit 3).
- Conditional transfer document - noncombat type aircraft (Exhibit 4).
- Conditional transfer document - vessels (Exhibit 5).
- Conditional transfer document - combat type aircraft (Exhibit 6).

NEW SECTION

WAC 236-47-016 RECORDS RETENTION. Copies of all S.F. 123 allocations, warehouse issue sheets, invoice documents, log books, and all other official records of the agency will be maintained for no

less than three years. Documents concerning items subject to restriction will be maintained for one year beyond the expiration of the restriction period. Whenever property is in compliance status, records will be maintained for one year after the case is closed.

WSR 84-07-026
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed March 16, 1984]

NEW SECTION

WAC 236-47-017 LIQUIDATION. Should a determination be made to liquidate the state agency, advance notice will be given to GSA in accordance with the specific requirements of FPMR 101-44.202(c)(14) indicating the reason for such action including a schedule of time to effect the closure and a report of the property on hand for retransfer, sale, or destruction. Assets will be converted to cash and will be divided among the participating donees of the past two years based on a proration of the amount of service charges paid by each donee during the period. Records and accounting information will be retained for two years after closure.

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Agriculture intends to adopt, amend, or repeal rules concerning interpretation for enforcement of chapter 19.94 RCW relating to chapter 16-657 WAC;

that the agency will at 1:30 p.m., Wednesday, April 25, 1984, in the Large Conference Room, General Administration Building, 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 May 2, 1984.

The authority under which these rules are proposed is chapter 19.94 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 25, 1984.

Dated: March 15, 1984
By: James E. Wommack
Assistant Director

WSR 84-07-025

ADOPTED RULES

DEPARTMENT OF ECOLOGY

[Order DE 84-6-Filed March 15, 1984]

I, John F. Spencer, deputy director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, Lacey, Washington, the annexed rules relating to:

- Amd WAC 173-19-400 Spokane County.
- Amd WAC 173-19-250 King County.

This action is taken pursuant to Notice No. WSR 84-03-057 filed with the code reviser on January 18, 1984. 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 March 14, 1984.

By John F. Spencer
Deputy Director

STATEMENT OF PURPOSE

Relating to the posting of alcohol blend gasolines - interpretation blending alcohol with gasoline.

Authority: Chapter 19.94 RCW.

Purpose: To inform the public when alcohol has been blended with gasoline for motor vehicle fuels.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: James E. Wommack, Assistant Director, Department of Agriculture, Dairy and Food Division, 406 General Administration Building, Olympia, WA 98504, (206) 753-5042.

This rule is necessary to keep the public informed as to when and how much alcohol has been blended in the motor vehicle fuel. Alcohol has a deleterious effect on some automobile engines.

Proponent: Department of Agriculture and fuel industry.

Rule is not a result of federal law or federal or state court actions.

AMENDATORY SECTION (Amending Order DE 82-44, filed 12/23/82)

WAC 173-19-400 SPOKANE COUNTY. Spokane County Master Program approved January 15, 1975. Revision approved September 6, 1977. Revision approved August 15, 1979. Revision approved February 24, 1981. Revision approved December 15, 1982. Revision approved March 14, 1984.

AMENDATORY SECTION (Amending Order DE 81-54, filed 2/9/82)

WAC 173-19-250 KING COUNTY. King County master program approved July 8, 1976. Revision approved November 22, 1976. Revision approved June 30, 1978. Revision approved July 5, 1979. Revision approved September 23, 1981. Revision approved February 9, 1982. Revision approved March 14, 1984.

NEW SECTION

WAC 16-657-040 POSTING OF ALCOHOL BLEND GASOLINES (1) All retail motor fuel devices dispensing alcohol blend gasolines shall state on the face of the device that alcohol ingredients are contained therein. The statement shall disclose what alcohol products are included, i.e., methyl alcohol, ethyl alcohol, and the percentage of alcohol which is contained therein. Such statement shall be conspicuously posted in gothic letters at least one inch in height in contrasting letters, in such location as to be easily seen by consumers and in the following format:

=====
CONTAINS ____% ethyl/methyl ALCOHOL
=====

(2) The percentage of alcohol disclosed on the dispensing device shall be the ratio between the amount of ethyl alcohol, or methyl alcohol including co-solvents or proprietary inhibitors, or any other alcohol, to the total product volume.

WSR 84-07-027
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS
 [Filed March 16, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pilotage Commissioners intends to amend rules concerning collection of fees, WAC 296-116-070;

that the agency will at 9:00 a.m., Thursday, May 10, 1984, in the Conference Room, Colman Dock, Seattle, Washington 98104, conduct a public hearing on the proposed rules.

The amendment of the rules will take place immediately following the hearing.

The authority under which these rules are proposed 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 May 9, 1984.

Dated: March 13, 1984
 By: Judith L. Weigand
 Assistant Attorney General

STATEMENT OF PURPOSE

Rule: WAC 296-116-070.

Statutory Authority: RCW 88.16.090.

Reason for Amendment: RCW 88.16.090 requires that pilots pay an annual license fee, which is collected on the anniversary date of the license. This fee may be reduced if the pilot performs no pilotage services during the year. The change from calendar year to license year will allow the board to adjust the fee on the same basis on which it is levied.

This Rule has been Drafted by: Judith L. Weigand, Assistant Attorney General, 5th Floor, Highways-Licenses Building, Olympia, WA 98504, (206) 753-4051.

This Rule will be Implemented by: Washington State Board of Pilotage Commissioners, Colman Dock, Seattle, WA 98104, (206) 464-7818.

Proposer: This rule is proposed by the Board of Pilotage Commissioners.

Agency Comments: None.

Federal Law/Court Decision: None.

Small Business Economic Impact Statement: None required.

AMENDATORY SECTION (Amending Order 82-8, Resolution No. 82-8, filed 11/18/82)

WAC 296-116-070 COLLECTION OF FEES. All pilots shall pay an annual license fee of eight hundred dollars for every year in which they perform any pilotage services. If a licensed pilot does not perform pilotage services during a (~~calendar~~) license year, his fee for that year shall be reduced to four hundred dollars upon application to the board. The board of pilotage commissioners shall receive all fees for licenses or for other purposes and make proper accounting of same and transmit all such funds to the pilotage account.

WSR 84-07-028
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS
 [Filed March 16, 1984]

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 marine pilot liability, trip insurance, repealing WAC 296-116-330;

that the agency will at 9:00 a.m., Thursday, May 10, 1984, in the Conference Room, Colman Dock, Seattle, Washington 98104, conduct a public hearing on the proposed rules.

The repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 88.16.035(1).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 9, 1984.

Dated: March 13, 1984
 By: Judith L. Weigand
 Assistant Attorney General

STATEMENT OF PURPOSE

Rule: WAC 296-116-330.

Summary of Rule: The current rule concerning trip insurance will be repealed since passage of ESSB 3133 amended RCW 88.16.115 - 88.16.117, limiting the liability of pilots to \$5,000 and deleting the requirement that pilots must offer to provide insurance on a trip basis to ships. Therefore, WAC 296-116-330 is unnecessary.

Repeal of this rule is being proposed by a governmental agency: Board of Pilotage Commissioners, Pier 52, Seattle, WA 98104, (206) 464-7818.

Agency Comments: None.

Federal Law/Court Decision: None.

Small Business Economic Impact Statement: Repeal of this rule will remove any unequal impact placed upon small businesses.

WSR 84-07-029
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 84-19—Filed March 16, 1984]

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

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 this interim rule is necessary until the permanent rule takes effect.

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 March 16, 1984.

By William R. Wilkerson
Director

NEW SECTION

WAC 220-56-18000L BAG LIMIT CODES. *Notwithstanding the provisions of WAC 220-56-180, effective March 19, 1984 until further notice it is unlawful to retain or possess chinook salmon taken for personal use from contiguous marine waters south of a line from Apple Cove Point to Edwards Point (Punch Card Areas 10, 11, and 13).*

WSR 84-07-030

EMERGENCY RULES

**PARKS AND RECREATION
COMMISSION**

[Resolution No. 78—Filed March 16, 1984]

Be it resolved by the Washington State Parks and Recreation Commission, acting at Ocean Shores, Washington, that it does adopt the annexed rules relating to boating safety, chapter 352-60 WAC.

We, the Washington State Parks and Recreation Commission, 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 section 3, chapter 183, Laws of 1984 directs the Washington State Parks and Recreation Commission to "Adopt and enforce recreational boating safety rules, including but not necessarily limited to equipment and navigation requirements, consistent with United States Coast Guard regulations;" section 5, chapter 183, Laws of 1984 specifies that "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately."

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

This rule is promulgated pursuant to RCW 43.51.400 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 March 16, 1984.

By Jack R. Gustafson
Chairperson

Chapter 352-60 WAC BOATING SAFETY

WAC

352-60-010	<i>Purpose.</i>
352-60-020	<i>Definitions.</i>
352-60-030	<i>Personal flotation devices.</i>
352-60-040	<i>Visual distress signals.</i>
352-60-050	<i>Ventilation.</i>
352-60-060	<i>Navigation lights and shapes and sound and light signals.</i>
352-60-070	<i>Steering and sailing.</i>
352-60-080	<i>Fire extinguishing equipment.</i>
352-60-090	<i>Backfire flame control.</i>
352-60-100	<i>Liquefied petroleum gas.</i>
352-60-110	<i>Canadian vessels.</i>

NEW SECTION

WAC 352-60-010 PURPOSE. *This chapter is promulgated in order to establish boating safety standards in accordance with RCW 43.51.400.*

NEW SECTION

WAC 352-60-020 DEFINITIONS. *When used in this chapter the following words and phrases shall have the meanings designated in this section unless a different meaning is expressly provided or unless the context clearly indicates otherwise.*

(1) "Boat" means any vessel manufactured or used primarily for noncommercial use, leased, rented, or chartered to another for the latter's noncommercial use, or engaged in the carrying of six or fewer passengers.

(2) "Coastal waters" means the high seas within the territorial limits of Washington state and the bays and sounds which empty into these waters. "Coastal waters" does not mean rivers, inside of a line drawn tangent to their headlands, unless the distance across a river is over two miles, in which case "coastal waters" means all portions of a river from the mouth to the point at which the river first narrows to two miles.

(3) "Inland waters" means the waters within the territorial limits of Washington state which are not governed by the international regulations for preventing collisions at sea, 1972, (72 COLREGS), Title 33, Code of Federal Regulations, part 81-72, appendix A.

(4) "Length" means a straight line measurement of the overall distance from the foremost point of a vessel to the aftermost part of a vessel, measured parallel to the centerline not including bow sprits, bumpkins, boomkins, rudders, outboard motor brackets, outdrive units, propellers, and similar fittings or attachments.

(5) "Motorboat" means any vessel identified in Title 46, Code of Federal Regulations, Table 24.05-1(a), Column 6, which is sixty-five feet or less in length and equipped with propulsion machinery, including vessels propelled with steam machinery, and including vessels

which are temporarily or permanently equipped with a detachable motor.

(6) "Motor vessel" means any vessel which is more than sixty-five feet in length and propelled by machinery other than steam.

(7) "Passenger" means every person on board a vessel other than the following:

(a) The owner of a vessel or the representative of the owner,

(b) The operator of a vessel;

(c) The bona fide members of the crew of a vessel who are engaged in the business of a vessel, who have not contributed for their carriage, and who are paid for their services; and

(d) Guests who are on board a vessel which is being used exclusively for pleasure purposes and who have not contributed for their carriage.

(8) "Racing shell, rowing scull, and racing kayak" means any manually propelled boat that is recognized by a national or international racing association for use in competitive racing, in which all occupants row, scull, or paddle, with the exception of a coxswain, if one is provided, and which is not designed to carry and does not carry any equipment not solely for competitive racing.

(9) "Recreational boat" means any vessel manufactured or used primarily for noncommercial use; or leased, rented, or chartered to another for the latter's noncommercial use. It does not include a vessel engaged in the carrying of six or fewer passengers.

(10) "Use" means to operate, navigate, moor or employ.

(11) "Vessel" means every watercraft used or capable of being used as a means of transportation on the water, other than a seaplane.

(12) "Waters of Washington state" means any waters within the territorial limits of Washington state.

(13) "Waters of Washington state which are governed by the international regulations for preventing collisions at sea, 1972, (72 COLREGS), Title 33, Code of Federal Regulations, part 81-72, appendix A," means the waters within the territorial limits of Washington state which are identified in Title 33, Code of Federal Regulations, 80.1365, 80.1370, 80.1375, 80.1380, 80.1385, 80.1390, and 80.1395.

NEW SECTION

WAC 352-60-030 **PERSONAL FLOTATION DEVICES.** When a person uses a recreational boat on the waters of Washington state that is propelled or controlled by machinery, sails, oars, paddles, poles, or another vessel, except racing shells, rowing sculls, and racing kayaks, such persons shall comply with Title 33, Code of Federal Regulations 175.3, 175.13, 175.15, 175.17, 175.19, 175.21, and 175.23.

NEW SECTION

WAC 352-60-040 **VISUAL DISTRESS SIGNALS.** When a person uses a boat on the coastal waters of Washington state such person shall comply with Title 33, Code of Federal Regulations, 175.3, 175.105(a),

175.110, 175.113, 175.115, 175.120, 175.125, 175.128, 175.130, and 175.140.

NEW SECTION

WAC 352-60-050 **VENTILATION.** When a person uses a boat on the waters of Washington state that has a gasoline engine for electrical generation, mechanical power, or propulsion such person shall comply with Title 33, Code of Federal Regulations, 175.3 and 175.201. When used on the waters of Washington state a motorboat or a motor vessel shall comply with Title 46, Code of Federal Regulations, 25.40-1.

NEW SECTION

WAC 352-60-060 **NAVIGATION LIGHTS AND SHAPES AND SOUND AND LIGHT SIGNALS.** (1) When used on the waters of Washington state which are governed by the international regulations for preventing collisions at sea, 1972, (72 COLREGS), Title 33, Code of Federal Regulations, part 81-72; appendix A, a vessel shall be equipped with the navigation lights and shapes and sound and light signals as required by such international rules and the COLREGS implementing rules, Title 33, Code of Federal Regulations, parts 81-72 and 82-72.

(2) When used on the inland waters of Washington state, a vessel shall be equipped either with the navigation lights and shapes and sound and light signals as required by the international regulations for preventing collisions at sea, 1972, (72 COLREGS), Title 33, Code of Federal Regulations, part 81-72, appendix A, and the COLREGS implementing rules, Title 33, Code of Federal Regulations, part 81-72 or as required by the inland navigational rules act of 1980, 33, United States Code, chapter 34, and the inland navigational rules, Title 33, Code of Federal Regulations, parts 84, 85, 86, 87, 88, and 89.

NEW SECTION

WAC 352-60-070 **STEERING AND SAILING.** (1) When used on the waters of Washington state which are governed by the international regulations for preventing collisions at sea, 1972, (72 COLREGS), Title 33, Code of Federal Regulations, part 81-72, appendix A, a vessel shall comply with the steering and sailing rules of such international rules and the COLREGS implementing rules, Title 33, Code of Federal Regulations, part 81-72.

(2) When used on the inland waters of Washington state, a vessel shall comply with the steering and sailing rules of the inland navigational rules act of 1980, 33, United States Code, chapter 34.

NEW SECTION

WAC 352-60-080 **FIRE EXTINGUISHING EQUIPMENT.** When used on the waters of Washington state a motorboat or a motor vessel shall be equipped with the fire extinguishing equipment as required by Title 46, Code of Federal Regulations, subpart 25.30.

NEW SECTION

WAC 352-60-090 BACKFIRE FLAME CONTROL. *When used on the waters of Washington state a motorboat or a motor vessel shall be equipped with the backfire flame control devices as required by Title 46, Code of Federal Regulations, subpart 25.35.*

NEW SECTION

WAC 352-60-100 LIQUEFIED PETROLEUM GAS. *When a vessel is used to carry persons for hire on the waters of Washington state the use on such vessel of any liquefied petroleum gas or certain flammable liquids for cooking, heating, or lighting is prohibited as required by Title 46, Code of Federal Regulations, subpart 25.45 and parts 146 and 147.*

NEW SECTION

WAC 352-60-110 CANADIAN VESSELS. *When used on the waters of Washington state for a period of less than sixty days all Canadian vessels which comply with the boating safety laws of the government of Canada shall be exempt from the provisions of chapter 352-60 WAC except for WAC 352-60-070.*

WSR 84-07-031
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 234—Filed March 19, 1984]

Be it resolved by the Washington State Game Commission, acting at Olympia, by conference call, that it does adopt the annexed rules relating to:

- New WAC 232-28-60606 Regulation change for sport fishing on the Snohomish River system.
- New WAC 232-28-60607 Regulation change for sport fishing on the Green River (King County).

We, the Game Commission, 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 recreational fisheries have taken their 5% incidental catch allowance of wild fish from runs returning at levels less than established spawning escapement objectives. All further catches must be limited to hatchery-origin steelhead.

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

This rule is promulgated pursuant to RCW 77.12.150 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 March 19, 1984.

By Vern E. Ziegler
Chairman, Game Commission

NEW SECTION

WAC 232-28-60607 REGULATION CHANGE FOR SPORT FISHING ON THE GREEN RIVER (KING COUNTY). *Notwithstanding the provisions of WAC 232-28-611, on the Green River (King County), only steelhead with dorsal fins measuring 2 1/4" or less in height or with missing adipose or ventral fins may be reduced to possession. It is unlawful to possess a steelhead with a dorsal fin measuring greater than 2 1/4" in height or to possess a steelhead with a freshly cut or mutilated fin. Effective immediately through March 31, 1984.*

NEW SECTION

WAC 232-28-60606 REGULATION CHANGE FOR SPORT FISHING ON THE SNOHOMISH RIVER SYSTEM. *Notwithstanding the provisions of WAC 232-28-611, on the Snohomish River system, only steelhead with dorsal fins measuring 2 1/4" or less in height or with missing adipose or ventral fins may be reduced to possession. It is unlawful to possess a steelhead with a dorsal fin measuring greater than 2 1/4" in height or to possess a steelhead with a freshly cut or mutilated fin. Effective immediately through March 31, 1984.*

WSR 84-07-032
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE UNIVERSITY
[Memorandum—March 16, 1984]

The services and activities fee committee of the associated students of Washington State University will hold meetings on the following Thursdays during spring 1984:

- March 22, 29
- April 12, 19, 26
- May 3, 10, 17, 24, 31

All services and activities fee committee meetings will begin at 6:30 p.m. in Room 220, Compton Union Building, Washington State University, Pullman, Washington 99164.

WSR 84-07-033
ADOPTED RULES
COLUMBIA BASIN COLLEGE
[Order 84-2—Filed March 19, 1984]

Be it resolved by the board of trustees of Community College District No. 19, Columbia Basin College, acting at Board Room, Columbia Basin College, that it does adopt the annexed rules relating to SEPA.

This action is taken pursuant to Notice Nos. WSR 83-24-052 and 84-06-033 filed with the code reviser on

December 5, 1983, and March 1, 1984. 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 under the general rule-making authority of Community College District No. 19, Columbia Basin College, as authorized in chapter 28B.10 RCW.

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 March 5, 1984.

By F. L. Esvelt
Secretary, Board of Trustees

Chapter 132S-285 WAC

SEPA (STATE ENVIRONMENTAL POLICY ACT)
POLICY

WAC 132S-285-010 Policy statement
WAC 132S-285-015 Responsible official for carry out policy.

NEW SECTION

WAC 132S-285-010 POLICY STATEMENT. It shall be the policy of Community College District No. 19 that capital projects proposed and developed by the district shall comply with the provisions of Chapter 43-21 RCW, the State Environmental Policy Act (SEPA); chapter 197-10 WAC, guidelines for SEPA implementation; and WAC 131-24-030; SEPA implementation rules of the State Board for Community College Education.

NEW SECTION

WAC 132S-285-015 RESPONSIBLE OFFICIAL FOR CARRYING OUT POLICY. In compliance with WAC 197-10-820, the district president, or an administrative officer designated by the district president, shall be the "responsible official" for carrying out this policy.

WSR 84-07-034

**ADOPTED RULES
MUNICIPALITY OF
METROPOLITAN SEATTLE**

[Resolution No. 4328—Filed March 19, 1984]

Be it resolved by the Council of the Municipality of Metropolitan Seattle, acting at Seattle, Washington, that it does adopt the annexed rules relating to the establishment of procedures for corridor and design public hearings under RCW 35.58.273.

This action is taken pursuant to Notice No. WSR 84-03-041 filed with the code reviser on January 17, 1984. 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 35.58.273 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 March 19, 1984.

By Maureen Varni
Clerk of the Council

Chapter 330-01

PROCEDURES FOR CORRIDOR AND DESIGN
PUBLIC HEARINGS UNDER RCW 35.58.273

WAC

- 330-01-010 Authority.
- 330-01-020 Purpose of this chapter.
- 330-01-030 Purpose of this rule.
- 330-01-040 When this rule applies.
- 330-01-050 Definitions for this chapter.
- 330-01-060 Opportunity for and timing of public hearings.
- 330-01-070 Combination with other public participation.
- 330-01-080 Public hearings when there is an EIS.
- 330-01-090 Public hearings when there is no EIS.

NEW SECTION

WAC 330-01-010 AUTHORITY. This chapter is promulgated pursuant to RCW 35.58.273 and is intended to administratively implement that statutory provision.

NEW SECTION

WAC 330-01-020 PURPOSE OF THIS CHAPTER. The Municipality of Metropolitan Seattle is a municipal corporation as authorized by Chapter 35.58 RCW and defined in RCW 35.58.020(1). The Municipality of Metropolitan Seattle has established procedures for adopting its own resolutions, rules, and regulations in accordance with RCW 35.58.130. RCW 35.58.273 however, requires the Municipality to "adhere to the provisions of the Administrative Procedure Act", chapter 34.04 RCW, in adopting one particular rule. This chapter was created to fulfill that legal requirement.

NEW SECTION

WAC 330-01-030 PURPOSE OF THIS RULE
(1) The purpose of this rule is to provide detailed procedures for public participation and hearings in certain situations involving the location and design of a mass rapid transit system. A hearing on the location of the route of the proposed system is called a "corridor public hearing". A hearing on the major design features of the proposed system is called a "design public hearing".

(2) Another purpose of this rule is to coordinate public hearings under RCW 35.58.273 with other hearings

that the Municipality may hold during its planning process. RCW 35.58.273 was enacted prior to SEPA and NEPA. The Municipality's public hearings under these laws, for example, can fulfill the requirements of RCW 35.58.273.

NEW SECTION

WAC 330-01-040 WHEN THIS RULE APPLIES. (1) This rule applies in a specific situation involving the planning and design of mass rapid transit systems.

(2) This rule applies only when the Municipality:

(a) proposes to approve and construct a specific mass rapid transit system; and

(b) will acquire right of way or construct a mass transit facility on a separate right of way for the system; and

(c) will utilize certain special excise tax monies for such acquisition or construction.

(3) If all three items in the preceding subsection occur, the Municipality must provide an opportunity for corridor and design public hearings. However, if an overall mass rapid transit system plan is adopted by a vote of the electorate of the Municipality, prior corridor public hearings are not required under RCW 35.58.273.

NEW SECTION

WAC 330-01-050 DEFINITIONS FOR THIS CHAPTER. (1) "Corridor" means a pathway for mass rapid transit. It is synonymous with words such as "route", "route location", "route proposal", "location of the system", and "alignment". In this chapter, a corridor refers to a route used by a substantial portion of vehicles in the overall system and not simply to one or several bus routes. A corridor need not be used exclusively for mass rapid transit.

(2) "Corridor public hearing" means a public hearing that:

(a) the Municipality holds before it is committed to or establishes a specific mass rapid transit system corridor; and

(b) affords an opportunity for public comment on the need for and location of the system and on the social, economic, and environmental efforts on that location and alternate locations.

The statutory phrases "committed to or establishes" and "adoption of location plans" shall refer to a Resolution of the Council of the Municipality that authorizes a specific mass rapid transit system project and describes its location. The consideration of various proposals, including preferred alternatives, preliminary engineering work, or other planning during the environmental review process, do not constitute the establishment of or commitment to a specific mass transit route proposal.

(3) "Design public hearing" means a public hearing that:

(a) the Municipality holds after it establishes a system route location, but before it adopts a design; and

(b) affords an opportunity for public comment on the system's design and on the social, economic, and environmental effects of that design and alternate designs.

The phrase "adopts a design" shall refer to a Resolution of the Council of the Municipality that approves a final design for the system's major design features. Authorization or approval of preliminary design (sometimes referred to as pre-design) does not constitute adopting a design.

(4) "EIS" means an environmental impact statement prepared under SEPA or NEPA.

(5) "Environmental document" means any written public document prepared under SEPA or NEPA.

(6) "Executive Director" means the Executive Director of the Municipality or the Executive Director's designee.

(7) "Final design" means plans and specifications in sufficient detail to authorize construction activities or, if applicable, to receive final approvals from other government agencies under Section 4(f) of the Department of Transportation Act or Section 106 of the National Historic Preservation Act of 1966.

(8) "Lead agency" means the local, state, or federal agency or agencies responsible for the preparation of environmental documents under SEPA or NEPA.

(9) "Major design features" means the physical size, shape, and appearance of the principal components of a mass rapid transit system, and the relationship of these components to each other and to their surroundings.

(10) "Mass rapid transit system" (or "system") means a new network of routes and facilities to be used by mass transit vehicles serving the Municipality's functions. A system is not simply a particular facility or group of facilities serving transit purposes, but must involve the establishment of a new corridor for transit vehicles. A system refers both to the location and to the major design features of the corridor and associated facilities.

(11) "Mass transit facility" means a facility constructed on a separate right of way as part of a mass rapid transit system.

(12) "Mass transit route proposal" means a proposed corridor for a mass rapid transit system.

(13) "Municipality" means the Municipality of Metropolitan Seattle, a unit of local government established under Chapter 35.58 RCW.

(14) "NEPA" means the National Environmental Policy Act of 1969, 40 U.S.C. 4321 *et seq.*

(15) "Right of Way Acquisition" refers to right of way acquisition for a mass rapid transit system (as defined in WAC 330-01-050(10)), and does not include rights of the Municipality under RCW 35.58.330.

(16) "Route". See "Corridor".

(17) "SEPA" means the State Environmental Policy Act of 1971, Chapter 43.21C RCW.

(18) "Separate right of way" means a right of way proposed to be used for public transportation that is not in, along, on, under, over, or through public streets, bridges, viaducts, and other public rights of way.

(19) "Social, economic, and environmental effect" means a direct or indirect consequence of a system's location or design. The term "environmental effect" means the impact on the elements of the environment, as specified by RCW 43.21C.110(1)(f), and is not synonymous with "social" or "economic" effects.

(20) "System" means "mass rapid transit system" (WAC 330-01-050(10)).

NEW SECTION

WAC 330-01-060 OPPORTUNITY FOR AND TIMING OF PUBLIC HEARINGS. (1) Generally speaking, the Municipality will provide an opportunity for public hearings before locating, designing, and building a system that has substantial impacts (see subsection (2) of this section for a technical explanation). If the Municipality already has a system operating on a separate right of way, Metro will provide an opportunity for public hearings before substantially changing that system.

(2) When this rule applies (WAC 330-01-040), the Municipality shall afford opportunity for corridor and design public hearings:

(a) before the Municipality adopts location and design plans having a substantial social, economic, or environmental effect upon the locality where the plans are to be constructed; or

(b) whenever a substantial change, having a substantial social, economic, or environmental effect, is proposed relating to the location or design in the adopted plan (if any) for a mass rapid transit system operating on a separate right of way.

(3) Corridor public hearings shall be held before the Municipality is committed to a specific mass transit route proposal and before a route location is established. If an EIS analyzes alternative corridors, corridor public hearings are encouraged to be held no earlier than the scoping process nor later than the public hearing on the draft EIS.

(4) Design public hearings shall be held after the Municipality establishes the corridor location, but before it adopts the design. If there is a formal preliminary design document, such as an environmental, engineering, or pre-design document, design public hearings are encouraged to be held after such a document has been prepared for consideration by the Municipality.

(5) Recognizing that the planning and design of mass rapid transit systems is a long and complex process, the Executive Director shall have discretion to determine the most appropriate time in the planning and decision-making process to hold any corridor and design public hearings.

(6) Nothing in this chapter shall restrict the Council of the Municipality or any of its committees or members from considering the location or design of a system, or documents related thereto, prior to any corridor or design public hearings.

(7) Nothing in this chapter shall restrict the Municipality from preparing or considering a single document that covers both system location and design. Design public hearings, however, cannot be held until after the Municipality holds corridor public hearings and establishes a corridor location.

NEW SECTION

WAC 330-01-070 COMBINATION WITH OTHER PUBLIC PARTICIPATION. (1) The Municipality may hold corridor and design public hearings concurrently with any other public hearings on a proposed mass rapid transit system. Corridor or design public hearings may be combined with a public comment period at a meeting of the Council or Transit Committee of the Municipality. The Executive Director may make the decision to combine such public hearings. Corridor or design public hearings that are combined with other public participation shall meet the requirements of this section.

(2) If corridor or design public hearings are held concurrently with public hearings on an EIS, WAC 330-01-080 shall govern. If corridor or design public hearings are held concurrently with any other hearings, the procedures for such other hearings shall apply, except that:

(a) notice shall at a minimum contain the information and be published as specified in WAC 330-01-090(4) and

(b) the hearing shall provide a forum for commenting on the subjects specified in WAC 330-01-090(5)(d) and (e).

(3) Except for the notice referred to in the preceding subsection, holding corridor and design public hearing with any other hearings does not change or expand the requirements for any documents prepared for the hearings, including but not limited to environmental impact statements.

NEW SECTION

WAC 330-01-080 PUBLIC HEARINGS WHEN THERE IS AN EIS. (1) The Municipality shall conduct corridor and design public hearings whenever the Municipality is a lead agency for an EIS on a proposed system which meets the criteria of WAC 330-01-040.

(2) If the Municipality holds corridor or design public hearings concurrently with public hearings on an EIS under SEPA, the Municipality shall follow the procedures for hearings on EISs, as specified by chapter 43.21C RCW, chapter 197-11 WAC, and the Municipality's Resolution setting forth its SEPA procedures.

(3) If the Municipality holds corridor or design public hearings concurrently with public hearings on an EIS under NEPA, the Municipality shall follow the procedures for hearings specified by its own procedures and by the federal joint lead agency and that agency's NEPA implementing procedures.

(4) Compliance with SEPA procedures (and/or NEPA procedures if applicable) fully satisfies the requirements of this chapter if:

(a) the information required by WAC 330-01-090(4)(b) is included in the published notice for the hearings; and

(b) the public hearing provides a forum for commenting on the subjects specified in WAC 330-01-090(5)(d) and (e).

NEW SECTION

WAC 330-01-090 PUBLIC HEARINGS WHEN THERE IS NO EIS. (1) No EIS. When this chapter applies to a proposal, but an EIS is not being prepared, the Municipality shall nonetheless provide an opportunity for public hearings by following the procedures in this section.

(2) Notice of opportunity for hearings. The Municipality shall publish a notice in a newspaper of general circulation in the area where proposed system would be located. The notice shall contain:

(a) a statement that members of the public may request the Municipality to hold a corridor or design public hearing (as applicable).

(b) a brief description of the system's route location or major design features (as applicable).

(c) the availability of an environment document, if any, on the proposal.

(d) the method and date by which members of the public can request a public hearing.

(3) When a hearing must be held. The Municipality shall hold a corridor or design public hearing (as applicable) under this section when written requests are submitted by:

(a) twenty-five (25) or more persons residing within the Municipality, or who would be affected by the proposal; or

(b) two or more agencies with the authority to approve or disapprove the proposal. The written requests must be received within thirty (30) days of the publication of the notice required by subsection (2) above.

(4) Notice of corridor/design public hearings.

(a) Publication. The Municipality shall publish a notice of public hearings in a newspaper of general circulation in the area where the proposed system would be located. The hearing shall be held no earlier than fifteen (15) days nor later than fifty (50) days from the date of first newspaper publication.

(b) Content. The notice shall contain:

(i) A brief description of the location or design (as applicable) of the proposed system.

(ii) A statement that members of the public may comment on:

(A) the need for and location of the system, for corridor public hearings;

(B) the major design features of the system, for design public hearings; and

(C) the social, economic, and environmental effects of the location (or design) of the proposal and alternate locations (or designs).

(iii) The name and availability of environmental or other documents pertaining to the hearing.

(iv) The time and place of the hearing.

(5) Conduct of public hearings.

(a) Availability of documents before hearings. The Municipality shall make any environmental document on the proposed system available to the public at least fifteen (15) days before the public hearings. The Municipality shall also make these documents available for public inspection at the hearings.

(b) Chair and rules. The public hearings shall be chaired by a member of the Council of the Municipality or a person designated by the Chair of the Transit Committee. The hearing shall be conducted in conformance with the Municipality's adopted rules or procedures for public hearings and with applicable state or federal regulations.

(c) Recordings. Recording may be made of any proceedings of these public hearings, and such recordings shall be appropriately indexed and made available at the Municipality's library or its SEPA public information center.

(d) Corridor public hearings. At corridor public hearings, the Municipality shall allow the public to present views on the need for the system, the location of the system, and the social, economic, and environmental effects of the system's location and alternate locations.

(e) Design public hearings. At design public hearings, the Municipality shall allow the public to present views on the major design features of the system, and on the social, economic, and environmental effects of the system's design and alternate designs.

(6) Combined hearings. The Municipality may combine corridor or design public hearings with other public participation, in which case alternative procedures may be used (see WAC 330-01-070 and 080).

WSR 84-07-035
PROPOSED RULES
OFFICE OF THE
ATTORNEY GENERAL
[Filed March 20, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of the Attorney General intends to adopt, amend, or repeal rules concerning:

Amd	WAC 44-06-020	Definitions, to change name of consumer protection division to consumer and business fair practices division.
Amd	WAC 44-06-030	Function—Organization—Administrative offices, to change name of division and addresses of branch offices.
Amd	WAC 44-06-050	Index, to change name of division and delete index of files no longer maintained by division.
Amd	WAC 44-06-060	Public records officer, to allow nonattorney staff member to be designated by assistant attorney general in charge as public records officer.
Amd	WAC 44-06-120	Review of denials of public records request, to change the time period in which review of a denial of access to records must be completed from five days to two days to conform with RCW 42.17.320.
Amd	WAC 44-06-140	Adoption of form, to delete name of "Slade Gorton Attorney General," to add phone number of person making request and to delete certification of person making request;

that the agency will at 10:00 a.m., Tuesday, April 24, 1984, in the Office of the Attorney General, 13th Floor, Dexter Horton Building, 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 specific statute these rules are intended to implement is RCW 42.17.250 through 42.17.320.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 24, 1984.

Dated: March 19, 1984

By: Jay Uchida
Assistant Attorney General

STATEMENT OF PURPOSE

Name of Agency: Office of the Attorney General, Kenneth O. Eikenberry, Attorney General.

General Purpose of Rule: The rule shown below is to affect changes in the attorney general's WACs which implement the Public Disclosure Act, RCW 42.17.250 through 42.17.320.

Statutory Authority: RCW 42.17.250 directs the attorney general to publish procedures for guidance of the public in making requests for public records.

Summary of Rules: See above.

Reason Proposed: The amendments are proposed to facilitate the public in making requests for public records by implementing changes in the organizational structure of the Office of the Attorney General including: Updating name of divisions of the Office of the Attorney General; eliminating references to former attorney general and correction of changed addresses of branch offices; deleting references to indices of public records which are no longer maintained by the attorney general; changing designation of staff members who are public records officers; and changing time limit of review of appeal of a denial of request for public records from five days to two days to conform with RCW 42.17.120 which provides that administrative review of appeals must be completed in two days.

Responsible Department Personnel: In addition to the attorney general the following agency personnel have responsibility for drafting, implementing and enforcing these rules: Jay Uchida, Assistant Attorney General, 13th Floor, Dexter Horton Building, Seattle, scan 576-7243.

Proponents and Opponents: This rule is proposed by the Office of the Attorney General.

There are no known opponents to rule.

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

WAC 44-06-020 DEFINITIONS. (1) The definitions set forth in RCW 42.17.020 shall apply to this chapter.

(2) "Intra-agency memoranda" includes but is not limited to memoranda from one member of the attorney general's staff to another and memoranda by members of the attorney general's staff to the particular state client which they represent.

(3) "Consumer ((protection)) and business fair practices division" is the division of the attorney general's office which enforces chapter 19.86 RCW and other trade and business regulation and consumer protection statutes.

(4) "Office" is the attorney general's office.

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

WAC 44-06-030 FUNCTION—ORGANIZATION—ADMINISTRATIVE OFFICES. The attorney general's office is charged

by the constitution and statutes with the general obligation of advising and legally representing the state of Washington, its officials, departments, boards, commissions and agencies but not the local units of government. In response to requests from state officers, legislators and prosecuting attorneys, the attorney general's office issues attorney general opinions. The published opinions of the attorney general's office are numbered as AGO (year of issue and number; i.e., AGO 1974 No. 1). The attorney general's office also issues office opinions which are not published, which are numbered as AGLO (year of issue and number; i.e., AGLO 1974 No. 1).

The organization of the office of the attorney general necessarily mirrors the organization of state government itself and a number of the assistant attorneys general are physically housed with the agency which they represent. Inquiries and correspondence should be directed to specifically named assistant attorneys general, if known; or the appropriate section of the office, if known.

Consumer protection complaints should be directed to the Consumer ((Protection)) and Business Fair Practices Division, Dexter-Horton Building, Seattle, Washington or to local division offices located in Tacoma, Olympia, or Spokane. Other inquiries, including requests for attorney general's opinions, should be directed to the Attorney General's Office, Temple of Justice, Olympia, Washington 98504.

Attorney general offices located in other cities are as follows:

- | | |
|---|---|
| (1) Everett Office
((9029 El Capitan Way))
1411 Wall Street
Everett, Washington | Social and Health Services
Public Assistance |
| (2) Tacoma Office
((116 South 9th))
949 Market Street
Suite 380
Tacoma, Washington | Consumer Protection
(Pierce County) |
| (3) Vancouver Office
((1206 1/2 Main Street))
500 West 8th Street
Suite 751
Vancouver, Washington | Social and Health Services
Public Assistance |
| (4) Spokane Office
((1305 Old National
Bank Bldg.))
1116 West
Riverside Street
Spokane, Washington | Consumer Protection
(Eastern Washington)
Labor and Industries |
| (5) Olympia Office
122 North Capitol Way
Olympia, Washington | Consumer Protection
(Thurston County) |

Offices of sections of the attorney general's office and their addresses are as follows (inquiries involving subject matters described in the following list should be initially directed to the respective section):

- (1) Agriculture - Legal Division
General Administration Bldg.
Olympia, Washington 98504
- (2) Ecology - Legal Division
St. Martin's College
Lacey, Washington 98504
- (3) Education - Legal Division
531 E. 15th
Olympia, Washington 98504
- (4) Employment Security - Legal Division
Employment Security Building
Olympia, Washington 98504
- (5) Departments of Game and Fisheries - Legal Division
600 North Capitol Way
Olympia, Washington 98504
- (6) Highways - Legal Division
5th Floor - Highway Licenses Building
Olympia, Washington 98504
- (7) Human Rights Commission - Legal Division
WEA Building
Olympia, Washington 98504
- (8) Labor and Industries - Legal Division
General Administration Building
Olympia, Washington 98504

- (9) Legal-Fiscal Division
Temple of Justice
Olympia, Washington
98504

(Auditor, General
Administration, Office of
Program Planning and Fiscal
Management, Public
Disclosure Commission)
- (10) Liquor Board - Legal Division
Capitol Plaza Building
Olympia, Washington 98504
- (11) Motor Vehicles - Legal Division
5th Floor - Highway Licenses Building
Olympia, Washington 98504
- (12) Natural Resources - Legal Division
Public Lands Building
Olympia, Washington 98504
- (13) Revenue Department - Legal Division
General Administration Building
Olympia, Washington 98504
- (14) Social and Health Services - Legal Division
101 Public Lands Bldg.
Olympia, Washington 98504
- (15) Tort Claims
5th Floor - Highway Licenses Building
Olympia, Washington 98504
- (16) Utilities and Transportation Commission - Legal Division
5th Floor - Highway Licenses Building
Olympia, Washington 98504
- (17) University of Washington
112 Administration Building
Seattle, Washington
- (18) Washington State University
432 French Administration Bldg.
Pullman, Washington
- (19) Western Washington (~~State College~~) University
(~~Room 342, Wilson Library~~) Room 335, Old Main
Bellingham, Washington

Central Office, Temple of Justice, Olympia, Washington. For those records maintained at other locations, the assistant attorney general in charge of the legal division having custody of the records or any staff member designated by the assistant attorney general shall be the public records officer.

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

WAC 44-06-120 REVIEW OF DENIALS OF PUBLIC RECORDS REQUESTS. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the attorney general or his designated deputy attorney general. The attorney general or his designee shall immediately consider the matter and either affirm or reverse such denial within (~~five~~) two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the attorney general or the designated deputy attorney general has returned the petition with a decision or until the close of the (~~fifth~~) second business day following denial of inspection, whichever occurs first.

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

WAC 44-06-140 ADOPTION OF FORM. The attorney general's office hereby adopts use by all persons requesting inspection and/or copies of records of the form set out below, entitled "request for public records."

Return to:

Public Records Officer
Office of the Attorney General
(Name and address of specific Legal Division. If not known, return to Office of Attorney General, Temple of Justice, Olympia, Washington 98504)

Other inquiries should be directed to the Attorney General's Office, Temple of Justice, Olympia, Washington 98504, unless the sender is aware of another specific address for the appropriate attorney general legal section.

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

WAC 44-06-050 INDEX. The attorney general's office biennial reports have indexed by subject matter the published opinions of the attorney general. A card index is maintained in the Central Office, Temple of Justice, Olympia, Washington, indexing all attorney general opinions (published and unpublished) by subject matter and by statute. Appellate briefs filed by the office of the attorney general are card indexed by subject and case name in the same office.

A card index is maintained in the Central Office, Temple of Justice, Olympia, Washington, for cases which have been filed involving the state, giving the name, the county and the cause number. For cases involving the department of labor and industries a comparable card index file is maintained in the Attorney General's Office, Dexter-Horton Building, Seattle, Washington.

The volume of correspondence received by the attorney general's office is such that it would be unduly burdensome to formulate and maintain an index for all such correspondence. In lieu of an index the following filing system is utilized.

(1) Consumer protection complaints received by the (~~Seattle consumer protection division~~) consumer and business fair practices division are filed by firm name of the subject of the complaint, or by the subject matter of the complaint if no specific firm is named.

(2) Letters from the public and the responses thereto are filed in the Central Office, Temple of Justice, Olympia, Washington, by alphabetical batching for specific time periods.

(3) Letters to and from agencies are filed in the Central Office, Temple of Justice, Olympia, Washington, by the name of the agency in a chronological sequence.

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

WAC 44-06-060 PUBLIC RECORDS OFFICER. The public records officer for the attorney general's office shall be the administrative assistant to the attorney general for all records maintained in the

OFFICE OF THE ATTORNEY GENERAL
(~~SLADE GORTON ATTORNEY GENERAL~~)
REQUEST FOR PUBLIC RECORDS

Date Time

Name

Address

Phone number where you can be reached during day _____

Description of Records (see index):
.....
.....
.....

(I certify that the information obtained through this request for public records will not be used for commercial purposes:))

Signature

Number of copies

Number of pages

Per page charge \$.....

Total charge \$.....

WSR 84-07-036
ADOPTED RULES
STATE BOARD
OF EDUCATION

[Order 1-84—Filed March 20, 1984]

Be it resolved by the State Board of Education, acting at Bellevue, Washington, that it does adopt the annexed rules relating to State assistance in providing school plant facilities—Basic state support, chapter 180-27 WAC.

This action is taken pursuant to Notice No. WSR 84-04-084 filed with the code reviser on February 1, 1984. 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 28A.47-.830 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 March 16, 1984.

By Monica Schmidt
 Secretary

AMENDATORY SECTION (Amending Order 11-83, filed 10/17/83)

WAC 180-27-070 ARCHITECTURAL AND ENGINEERING SERVICES. School districts shall select their architectural and engineering consultants in accordance with chapter 39.80 RCW. As required by RCW 39.80.050, the district shall negotiate a contract with the most qualified consultants at a price which the school district determines is fair and reasonable to the district; and, in making its determination, the district shall take into account the estimated value of the services to be rendered as well as the scope, complexity, and professional nature thereof.

The allocation of state moneys for matching purposes for a school facility project shall be based on the basic architectural and engineering services as defined by the American Institute of Architects Handbook of Professional Practice, Number Nine, Owner-Architects Agreements, Thirteenth Edition, July 1977, and calculated by the percentage(s) in relation to the square foot area of construction ((costs)) as calculated in WAC 180-27-040 and project type, as set forth below:

(1) New construction projects:

Architectural and Engineering Team Fee Matching Limitations

Construction Value	((Total Fee % of Construction Cost
Under \$ 100,000	10.0
100,000	9.0
200,000	8.5

Construction Value	((Total Fee % of Construction Cost
300,000	8.25
400,000	8.0
500,000	8.0
600,000	7.75
700,000	7.75
800,000	7.5
900,000	7.5
1,000,000	7.5
2,000,000	7.0
3,000,000	6.7
4,000,000	6.3
5,000,000 & above	6.0))

Square Feet of Construction	Percent of Construction Cost
3,700 or under	10.0
3,700	9.0
7,350	8.75
11,000	8.5
14,650	8.25
18,300	8.0
25,700	7.75
36,700	7.5
55,000	7.25
73,400	7.0
101,000	6.75
128,450	6.5
156,000	6.25
183,500 & above	6.0

NOTE: ((Fees)) Compensation for projects with square foot area of construction ((costs)) between the values shown ((may)) shall be established for matching purposes by the process as indicated in the example below.

Example:

$$\begin{aligned} & ((8.25\% \text{ of } \$300,000.00 = \$24,750.00 \\ & 8.00\% \text{ of } 50,000.00 = 4,000.00 \\ & \underline{\$350,000.00} \quad \underline{\$28,750.00}) \end{aligned}$$

Assume: Area of construction = 75,000 sq. ft.
 Area cost allowance = \$90/sq. ft.

$$\begin{aligned} 73,400 \text{ sq. ft.} \times \$90/\text{sq. ft.} \times 7.0\% &= \$462,420.00 \\ 1,600 \text{ sq. ft.} \times \$90/\text{sq. ft.} \times 6.75\% &= 9,720.00 \\ \underline{75,000 \text{ sq. ft.}} & \quad \underline{\$472,140.00} \end{aligned}$$

State share = ((~~\$28,750.00~~)) \$472,140.00 x state matching percentage

(2) Modernization projects:

For modernization projects, the ((~~architectural and engineering services eligible for state matching purposes~~)) limits of state participation shall ((~~not exceed~~)) be one and one-half times the ((~~percentage of the fees~~)) amount calculated for new construction as set forth in subsection (1) of this section.

(3) Combination projects:

For those projects which include a combination of new construction and modernization, the ((~~fee~~)) limits of state participation shall be pro rated as set forth in subsection (1) and (2) of this section.

WSR 84-07-037

ADOPTED RULES

MARINE EMPLOYEES' COMMISSION

[Resolution No. 84-01—Filed March 20, 1984]

Be it resolved by the Marine Employees' Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to:

New	ch. 316-02 WAC	Rules of practice and procedure.
New	ch. 316-25 WAC	Marine employees' representation case rules.
New	ch. 316-35 WAC	Marine employees' unit clarification case rules.
New	ch. 316-45 WAC	Unfair labor practice case rules.
New	ch. 316-55 WAC	Marine employees' impasse resolution rules.
New	ch. 316-65 WAC	Marine employees' grievance arbitration rules.
New	ch. 316-75 WAC	Marine employees' union security dispute rules.

This action is taken pursuant to Notice No. WSR 84-04-081 filed with the code reviser on February 1, 1984. 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 84.52.052 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 March 9, 1984.

By David P. Haworth
Chairman

Chapter 316-02 WAC
RULES OF PRACTICE AND PROCEDURE—MARINE EMPLOYEES' COMMISSION

NEW SECTION

WAC 316-02-001 APPLICATION AND SCOPE OF CHAPTER 316-02 WAC. Chapter 316-02 WAC has been added to the Washington Administrative Code by the marine employees' commission pursuant to the authority of section 19, chapter 15, Laws of 1983 (RCW 47.64....) and chapter 34.04 RCW, to promulgate comprehensive and uniform rules for practice and procedure before the agency. This chapter sets forth general rules applicable to all types of proceedings before the agency, and should be read in conjunction with the provisions of:

(1) Chapter 316-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of ferry system employees.

(2) Chapter 316-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing ferry system employees' bargaining unit.

(3) Chapter 316-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices in the Washington state ferry system.

(4) Chapter 316-55 WAC, which contains rules relating to the resolution of impasses occurring in ferry system collective bargaining.

(5) Chapter 316-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

(6) Chapter 316-75 WAC, which contains rules relating to determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

In the event of a conflict between general rule in this chapter and a special rule in another chapter applicable to a particular proceeding, the special rule shall govern.

NEW SECTION

WAC 316-02-003 POLICY—CONSTRUCTION—WAIVER. The policy of the state being primarily to promote peace in labor relations in the Washington state ferry system, these rules and all other rules adopted by the agency shall be liberally construed to effectuate the purposes and provisions of the statutes administered by the marine employees' commission and nothing in any rule shall be construed to prevent the commission and its authorized agents from using their best efforts to adjust any labor dispute. The commission and its authorized agents may waive any requirement of the rules unless a party shows that it would be prejudiced by such a waiver.

NEW SECTION

WAC 316-02-007 DEFINITIONS. As used in Title 316 WAC, unless the context otherwise requires, the definitions in this section shall apply.

(1) "Arbitration" means the procedure whereby the parties involved in an impasse submit their differences to a third party for a final and binding decision or as provided in this chapter.

(2) "Arbitrator" means either a single arbitrator or a panel of three arbitrators.

(3) "Collective bargaining representative" means the persons designated by the secretary of transportation and employee organizations to be the exclusive representatives during collective bargaining negotiations.

(4) "Commission" means the marine employees' commission created by chapter 15, Laws of 1983.

(5) "Department of transportation" or "department" means the department as defined in RCW 47.01.021.

(6) "Ferry employee" means any employee of the marine transportation division of the department of transportation who is a member of a collective bargaining unit represented by a ferry employee organization and does not include an exempt employee pursuant to RCW 41.06.079.

(7) "Ferry employee organization" means any labor organization recognized to represent a collective bargaining unit of ferry employees.

(8) "Ferry system management" means those management personnel of the marine transportation division

of the department of transportation who have been vested with the day-to-day management responsibilities of the Washington state ferry system by the transportation commission and who are not members of a collective bargaining unit represented by a ferry employee organization.

(9) "Lockout" means the refusal of ferry system management to furnish work to ferry employees in an effort to get ferry employ organizations to make concessions during collective bargaining, grievance, or other labor relation negotiations. Curtailment of employment of ferry employees due to lack of work resulting from a strike or work stoppage, as defined in subsection (10) of this section, shall not be considered a lockout.

(10) "Strike or work stoppage" means a ferry employee's refusal, in concerted action with others, to report to duty, or his or her wilful absence from his or her position, or his or her stoppage or slowdown of work, or his or her abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of his, her, or any other ferry employee's employment. A refusal, in good faith, to work under conditions which pose an endangerment to the health and safety of ferry employees or the public, as determined by the master of the vessel, shall not be considered a strike.

(11) "Transportation commission" means the commission as defined in RCW 47.01.021.

NEW SECTION

WAC 316-02-010 APPEARANCE AND PRACTICE BEFORE COMMISSION—WHO MAY APPEAR. No person may appear in a representative capacity before the marine employees' commission or its designated hearing officer other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington;

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law;

(3) A bona fide officer, employee or other authorized representative of: (a) The department of transportation, or (b) any labor or employee organization recognized, or seeking recognition, in accordance with chapter 316-25 WAC;

(4) Other persons, including but not limited to bona fide representatives of ferry users, may make presentations to the marine employees' commission following written request approved by a majority of the commission: PROVIDED, That only persons qualified under subsections (1), (2), and (3) of this section may take part in representation cases, unit clarifications, unfair labor practice cases, impasse resolutions, grievance handling, union security disputes, or any other technical matters involving labor relations.

NEW SECTION

WAC 316-02-020 APPEARANCE AND PRACTICE BEFORE COMMISSION—STANDARDS OF CONDUCT. Misconduct at any hearing conducted by the commission or its designee shall be ground for summary exclusion from the hearing. Misconduct of an aggravated character, when engaged in by an attorney or other person acting in a representative capacity pursuant to WAC 316-02-010, shall be ground for suspension or disbarment by the commission after due notice and hearing.

NEW SECTION

WAC 316-02-030 APPEARANCE AND PRACTICE BEFORE COMMISSION—APPEARANCE BY FORMER EMPLOYEE OF COMMISSION OR FORMER MEMBER OF ATTORNEY GENERAL'S STAFF. No former member of the marine employees' commission, former employee of the commission or former member of the attorney general's staff shall, at any time after severing his employment with the commission or with the attorney general, appear in a representative capacity on behalf of any party in connection with any case or proceeding which was pending before the commission during the time of his employment with the commission.

NEW SECTION

WAC 316-02-040 APPEARANCE AND PRACTICE BEFORE COMMISSION—FORMER EMPLOYEE AS WITNESS. Except upon the express written consent of the marine employees' commission, no former member of the commission, or former member of the attorney general's staff shall, at any time after severing his employment with the commission or with the attorney general, appear as a witness on behalf of any party in connection with any case or proceeding which was pending before the commission during the time of his employment with the commission.

NEW SECTION

WAC 316-02-100 SERVICE OF PROCESS—COMPUTATION OF TIME. In computing any period of time prescribed or allowed by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

NEW SECTION

WAC 316-02-103 SERVICE OF PROCESS—ADDITIONAL TIME AFTER SERVICE BY MAIL. Whenever a party has the right or is required to do some act within a prescribed period after service of a notice or other paper upon him, and the notice or paper is served

on him by mail or by telegraph, 3 days shall be added to the prescribed period.

NEW SECTION

WAC 316-02-105 SERVICE OF PROCESS—EXTENSION OF TIME. The commission or its authorized agent may, by agreement of the parties or for good cause shown, extend any time limit prescribed or allowed by the rules of the commission. Any motion to extend any time limit shall, except for good cause shown, be made before the expiration of such time limit.

NEW SECTION

WAC 316-02-110 SERVICE OF PROCESS—BY WHOM SERVED. The commission shall cause to be served all orders, notices and other formal papers issued by it, together with any other papers which it is required by law or rule to serve. Every other paper shall be served by the party filing it.

NEW SECTION

WAC 316-02-120 SERVICE OF PROCESS—UPON WHOM SERVED. All formal papers served by the commission or by any party shall be served upon all counsel then of record and upon all parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceeding shall notify all other counsel then of record and all parties not represented by counsel of such fact. Except as specifically provided elsewhere in these rules, copies of all correspondence directed to the commission or by the commission in connection with any matter pending before the commission shall be furnished to all counsel of record and to all parties not represented by counsel.

NEW SECTION

WAC 316-02-130 SERVICE OF PROCESS—METHOD OF SERVICE. Service of papers shall be made personally or, unless otherwise provide by law, by first-class, registered, or certified mail, or by telegraph.

NEW SECTION

WAC 316-02-140 SERVICE OF PROCESS—COMPLETION OF SERVICE ON PARTIES. Service upon parties shall be regarded as complete: By mail, upon deposit in the United States mail properly stamped and addressed; by telegraph, when deposited with a telegraph company properly addressed and with charges prepaid.

NEW SECTION

WAC 316-02-150 SERVICE OF PROCESS—FILING WITH COMMISSION. Papers required to be filed with the commission shall be deemed filed upon actual receipt by the commission during its regular office hours at the place specified for such filing: PROVIDED, HOWEVER, That such service shall be deemed to be incomplete if the party making the filing should subsequently fail, when requested to do so by the commission,

to provide proof of service upon other parties required to be served.

NEW SECTION

WAC 316-02-160 SERVICE OF PROCESS—OPPORTUNITY FOR HEARING. All hearings in contested cases shall be public. Any party to a contested case shall have the right to appear at such hearing in person, by counsel, or by other representative; and to call, examine and cross-examine witnesses; and to introduce into the record documentary or other evidence.

NEW SECTION

WAC 316-02-170 SERVICE OF PROCESS—NOTICE OF HEARING. In any contested case, all parties shall be served with a notice within the statutory time as required by the particular statute governing the proceeding involved. In the absence of a statutory requirement, notice shall be given twenty days before the date set for hearing. All notices of hearing shall state the time and place of the hearing, and shall clearly identify the proceeding or the issues involved.

NEW SECTION

WAC 316-02-180 SERVICE OF PROCESS—CONTINUANCES. Immediately upon receipt of notice of a hearing, or as soon thereafter as circumstances necessitating a continuance come to its knowledge, any party desiring a continuance shall notify all other parties prior to filing a request for continuance with the commission. All continuance requests shall be filed in writing and shall specify, in detail, the reasons why the continuance is necessary, the position of all other parties concerning the requested continuance and suggested alternative dates for rescheduling. In passing upon a request for continuance, the commission shall consider whether the request was promptly and timely made. For good cause shown, the commission or its designated hearing officer or examiner may grant a continuance and may at any time order a continuance on its or his own motion. During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the examiner or other officer conducting the hearing may, in his discretion, continue the hearing and fix the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute final notice of such continued hearing.

NEW SECTION

WAC 316-02-200 DEFINITION OF ISSUES—BEFORE HEARING. In all proceedings the issues to be adjudicated shall be made initially as precise as possible, in order that the hearing officer or examiner may proceed promptly to conduct the hearing on relevant and material matter only.

NEW SECTION

WAC 316-02-210 DEFINITION OF ISSUES—PREHEARING CONFERENCE AUTHORIZED. In

any proceeding, the commission or its designated hearing officer or examiner, upon its or his own motion or upon the motion of one of the parties or their qualified representatives, may in its or his discretion direct the parties or their qualified representatives to appear at a specified time and place for a conference to consider:

- (1) The simplification of issues;
- (2) The necessity of amendments to the pleadings;
- (3) The possibility of obtaining stipulations, admissions of facts and of documents;
- (4) The limitation of the number of expert witnesses;
- (5) Such other matters as may aid in the disposition of the proceeding.

NEW SECTION

WAC 316-02-220 DEFINITION OF ISSUES—RECORD OF ACTION TAKEN DURING PRE-HEARING CONFERENCE. The commission or its designated hearing officer or examiner shall make an order or statement which recites the action taken at any prehearing 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, 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 good cause by subsequent order.

NEW SECTION

WAC 316-02-230 SUMMARY JUDGMENT. A summary judgment may be issued if the pleadings and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that one of the parties is entitled to a judgment as a matter of law. Motions for summary judgment made in advance of a hearing shall be filed with the commission and served on all other parties to the proceeding.

NEW SECTION

WAC 316-02-300 SUBPOENAS—FORM. Every subpoena shall state the name of the commission as: State of Washington, marine employees' commission; shall state the title of the proceeding, if any; shall show on its face the name and address of the party at whose request the subpoena was issued; and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specified time and place.

NEW SECTION

WAC 316-02-310 SUBPOENAS—ISSUANCE TO PARTIES. Subpoenas requiring the attendance and testimony of witnesses or the production of evidence shall be issued ex parte to any party to a contested case: PROVIDED, HOWEVER, That no subpoena shall be issued or given effect to require the attendance and testimony of, or the production of evidence by, any member

of the commission or any member of the commission staff in any proceeding before the commission. The commission or its hearing officer or examiner shall issue subpoenas upon the application of counsel or other representative authorized to practice before the commission, and may condition the issuance of subpoenas to parties not so represented upon a showing of general relevance and reasonable scope of the testimony or evidence sought. Attorneys may act under the authority conferred by RCW 34.04.105(2)(a).

NEW SECTION

WAC 316-02-320 SUBPOENAS—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 him on demand the fees for one day's attendance and the mileage allowed by law.

NEW SECTION

WAC 316-02-330 SUBPOENAS—FEES. Witnesses summoned before the commission shall be paid by the party at whose instance they appear the same fees and mileage that are paid to witnesses in the superior courts of the state of Washington.

NEW SECTION

WAC 316-02-340 SUBPOENAS—PROOF OF SERVICE. The person serving the subpoena may make proof of service by filing the subpoena and the required return, affidavit, or acknowledgement of service with the agency or the officer before whom the witness is required to testify or produce evidence. If 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.

NEW SECTION

WAC 316-02-350 SUBPOENAS—QUASHING. Any motion to quash a subpoena is directed within five days after the date of service of the subpoena upon him and, in any event, shall be made at or before the time specified in the subpoena for compliance. The person making such motion shall give notice of the motion to the party to whom the subpoena was issued. The commission, hearing officer or examiner may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions.

NEW SECTION

WAC 316-02-360 SUBPOENAS—ENFORCEMENT. Upon application and for good cause shown, and upon proof of service of the subpoena involved if such proof was not previously provided pursuant to WAC 316-02-340, the commission will seek judicial enforcement of subpoenas which have not been quashed or may authorize a party to seek enforcement.

NEW SECTION

WAC 316-02-370 SUBPOENAS—GEOGRAPHICAL SCOPE. Attendance of witnesses and production of evidence may be required from any place in the state of Washington, at any designated place of hearing.

NEW SECTION

WAC 316-02-400 EVIDENCE—EXAMINATION OF WITNESSES. Witnesses in any hearing in a contested case shall be examined orally, under oath or affirmation, and shall be subject to cross-examination.

NEW SECTION

WAC 316-02-410 EVIDENCE—APPLICATION OF RULES OF EVIDENCE. Subject to the other provisions of these rules, the officer conducting the hearing shall admit all competent and relevant evidence of probative value. In passing upon the admissibility of evidence, the officer conducting the hearing shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings in the superior courts of the state of Washington.

NEW SECTION

WAC 316-02-420 EVIDENCE—OBJECTIONS AND RULINGS. When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The officer conducting the hearing may, in his discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered. No such objection shall be deemed waived by further participation in the hearing.

NEW SECTION

WAC 316-02-450 EVIDENCE—STIPULATIONS AND ADMISSIONS OF RECORD. The evidence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received upon behalf of such party, provided:

(1) Upon whom binding. Such a stipulation or admission is binding upon the parties by whom it is made, their privies and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated, upon the making thereof, if made on the record at a prehearing conference, oral hearing, or oral argument, or, is made in a writing filed and served upon all parties within five days after a copy of such stipulation or admission has been served upon them;

(2) Withdrawal. Any party bound by a stipulation or admission of record may, at any time prior to final decision, be permitted to withdraw the same in whole or in part by showing to the satisfaction of the hearing officer

or examiner of the agency that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

NEW SECTION

WAC 316-02-460 EVIDENCE—SUBMISSION OF DOCUMENTARY EVIDENCE. Documentary evidence shall be submitted in duplicate. It shall be the responsibility of the party submitting documentary evidence to provide a copy thereof to each of the other parties to the proceeding not already having a copy. Upon failure of a party to comply with this rule within five days after the close of the hearing, the commission shall, upon request, make all necessary copies at a reasonable monetary charge to the party offering the document.

NEW SECTION

WAC 316-02-470 EVIDENCE—EXCERPTS FROM DOCUMENTARY EVIDENCE. When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the hearing officer or examiner and to the other parties. In the absence of a request for and a showing of cause for the admission of the entire document in evidence, only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding.

NEW SECTION

WAC 316-02-490 EVIDENCE—REFUSAL OF WITNESS TO ANSWER. The refusal of a witness at any hearing in a contested case to answer any question which has been ruled to be proper shall, in the discretion of the hearing officer or examiner, be ground for striking all testimony previously given by such witness on related matter.

NEW SECTION

WAC 316-02-500 DECLARATORY RULINGS AUTHORIZED. As prescribed by RCW 34.04.080 any interested person may petition the commission for a declaratory ruling. The commission shall consider the petition and within a reasonable time the commission shall:

(1) Issue a nonbinding declaratory ruling; or
(2) Notify the person that no declaratory ruling is to be issued; or

(3) Set a reasonable time and place for an oral hearing or the submission of written evidence upon the matter, give reasonable notification to the person of the time and place for such hearing or submission of the issued involved, and, within a reasonable time, the commission shall:

(a) Issue a binding declaratory ruling; or

- (b) Issue a nonbinding declaratory ruling; or
- (c) Notify the person that no declaratory ruling is to be issued.

NEW SECTION

WAC 316-02-510 DECLARATORY RULINGS—PETITION. Any person petitioning the commission for a declaratory ruling pursuant to RCW 34.04.080 and WAC 316-02-500 shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "Before the Marine Employees' Commission". 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 Ruling". Opposite the foregoing caption shall appear the word "Petition".

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 the name of the other party to any collective bargaining relationship from which the issue or issues to be ruled upon arises. The third 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.

The original and three legible copies plus one copy for service on each party the petitioner seeks to have bound by any declaratory ruling shall be filed with the commission. Petitions shall be on white paper, 8 1/2" x 13" in size.

NEW SECTION

WAC 316-02-600 COMMISSION DECISIONS IN CONTESTED CASES—FORM AND CONTENT. Every decision and final order shall:

- (1) Be correctly captioned as to name of commission and name of proceeding;
- (2) Designate all parties and counsel to the proceeding;
- (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, the conclusions of law shall include the reason or reasons for the particular order or remedy afforded;
- (6) Wherever practical, the conclusions and/or order shall be referenced to specific provisions of the law and/or regulations appropriate thereto, together with reasons and precedents relied upon to support the same.

NEW SECTION

WAC 316-02-610 COMMISSION DECISIONS IN CONTESTED CASES—SERVICE. Every final order issued by the commission shall be served on each

party or upon the person or organization designated by the party or by law to receive service of such papers; and a copy shall be furnished to any counsel or person appearing for a party in a representative capacity.

NEW SECTION

WAC 316-02-800 COMMISSION RECORDS—PUBLIC ACCESS. The commission will maintain for public inspection: (1) An index to all proceedings filed with and processed by the commission; (2) a docket for each proceeding filed with and processed by the commission showing the actions taken on and the final resolution of each such proceeding; (3) a schedule of hearing dates assigned in particular cases; and (4) the files for all proceedings, including all documents filed with the commission in the particular case, except materials held in confidence as provided in WAC 316-02-810.

NEW SECTION

WAC 316-02-810 COMMISSION RECORDS—CONFIDENTIALITY. The commission, in order to protect the privacy of individual employees and in order to respect the confidential nature of the mediation process, shall not permit the disclosure to any person of (1) evidence filed as a showing of interest in support of a representation petition or motion for intervention, or (2) notes and memoranda made by any member of the commission or its staff as a recording of communication made or received while acting in the capacity of a mediator between the parties to a labor dispute.

NEW SECTION

WAC 316-02-820 COMMISSION OFFICES. The commission maintains its principal office in the city of Olympia, Washington at Olympia, Washington 98504.

NEW SECTION

WAC 316-02-900 PETITIONS FOR RULE MAKING—WHO MAY PETITION. Any interested person may petition the commission requesting the promulgation, amendment, or repeal of any rule.

NEW SECTION

WAC 316-02-910 PETITIONS FOR RULE MAKING—FORM. Any interested person petitioning the commission requesting the promulgation, amendment or repeal of any rules shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "Before the Marine Employees' Commission." 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 (state whether promulgation, amendment or repeal) of Rule (or Rules)." Opposite the foregoing caption shall appear the word "Petition."

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 promulgation 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 commission 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.

Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and three legible copies of the petition shall be filed with the commission. Petitions shall be on white paper, 8 1/2" x 13" in size.

NEW SECTION

WAC 316-02-920 PETITIONS FOR RULE MAKING—COMMISSION MUST CONSIDER. All petitions shall be considered by the commission and the commission may, at its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal, or modification of any rule.

NEW SECTION

WAC 316-02-930 PETITIONS FOR RULE MAKING—NOTICE OF DISPOSITION. The commission shall notify the petitioning party within a reasonable time of the disposition, if any, of the petition.

Chapter 316-25 WAC MARINE EMPLOYEES' REPRESENTATION CASE RULES

NEW SECTION

WAC 316-25-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the marine employees' commission on petitions for investigation of questions concerning representation of Washington state ferry system employees. The provisions of this chapter should be read in conjunction with the provisions of:

- (1) Chapter 316-02 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the marine employees' commission.
- (2) Chapter 316-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing ferry system employees' bargaining unit.
- (3) Chapter 316-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices in the Washington state ferry system.
- (4) Chapter 316-55 WAC, which contains rules relating to resolution of impasses occurring in ferry system collective bargaining.
- (5) Chapter 316-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of

the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

(6) Chapter 316-75 WAC, which contains rules relating to determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

NEW SECTION

WAC 316-25-010 PETITION FOR INVESTIGATION OF A QUESTION CONCERNING REPRESENTATION OF EMPLOYEES—WHO MAY FILE. A petition for investigation of a question concerning representation of employees, hereinafter referred to as a "petition," may be filed by any employee of the Washington state ferry system, group of employees, employee organization, department of transportation, or their agents.

NEW SECTION

WAC 316-25-030 PETITION—TIME FOR FILING. In order to be timely filed:

(1) Where there is a valid written and signed collective bargaining agreement in effect covering an appropriate bargaining unit which includes any or all of the employees to be affected by the petition, a petition must be filed during the period not more than ninety nor less than sixty days prior to the expiration date of the collective bargaining agreement, or after the expiration thereof.

(2) Where a certification has been issued by the commission covering an appropriate bargaining unit which includes any or all of the employees to be affected by the petition, a petition must be filed not less than twelve months following the date of the certification.

(3) Where neither subsections (1) nor (2) of this section are applicable, a petition may be filed at any time.

NEW SECTION

WAC 316-25-050 PETITION FORM—NUMBER OF COPIES—FILING—SERVICE. Each petition shall be prepared on a form furnished by the commission or on a facsimile thereof. The original and three copies of the petition shall be filed with the commission at its Olympia office. The party filing the petition shall serve a copy on the department and on each employee organization named in the petition as having an interest in the proceedings.

NEW SECTION

WAC 316-25-070 CONTENTS OF PETITION. Each petition shall contain:

- (1) The name and address of the department and the name, address and telephone number of the department's principal representative in matters concerning relationships between the department and its employees.
- (2) A description of the bargaining unit which the petitioner claims to be appropriate, specifying inclusions and exclusions, and, if known, the approximate number of employees in such bargaining unit.

(3) The names and, if known, the addresses and telephone numbers of the principal representatives of any organizations which may claim to represent any of the employees in the bargaining unit which the petitioner claims to be appropriate.

(4) A statement that: (a) The department declines, after having been requested to do so, to recognize the petitioner as the exclusive representative of the employees in the bargaining unit which the petitioner claims to be appropriate, or (b) the employees in the bargaining unit which the petitioner claims to be appropriate wish to change their exclusive bargaining representative, or (c) the employees in the bargaining unit do not wish to be represented by an employee organization.

(5) Any other relevant facts.

(6) The name, address and affiliation, if any, of the petitioner and the name, address and telephone number of the principal representative, if any, of the petitioner.

(7) The signature and, if any, the title of the petitioner or its representative.

NEW SECTION

WAC 316-25-090 CONTENTS OF PETITION FILED BY DEPARTMENT. Each petition filed by the department shall contain all of the information required by WAC 316-25-070, except for that required by WAC 316-25-070(4). Each petition filed by the department shall contain a statement that the department has been presented with a demand by an organization seeking recognition as the exclusive representative of the employees in the bargaining unit described in the petition. WAC 316-25-110 shall not be applicable to such petitions. Where the status of an incumbent exclusive bargaining representative is questioned, the department shall attach such affidavits and other documentation as may be available to it to demonstrate the existence of a good faith doubt concerning the representation of its employees.

NEW SECTION

WAC 316-25-110 SUPPORTING EVIDENCE. The original petition shall be accompanied by a showing of interest indicating that the petitioner has the support of not less than thirty percent of the employees in the bargaining unit which the petitioner claims to be appropriate. The showing of interest must be timely filed under the same standards applicable to the petition, and must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate during the ninety day period preceding the filing of such evidence with the commission.

NEW SECTION

WAC 316-25-130 LIST OF EMPLOYEES. The department shall submit to the commission a list containing the names and last known addresses of all of the employees in the bargaining unit described in the petition. Following administrative determination that the petition is supported by a sufficient showing of interest, the department shall, upon request, provide a copy of the list of names and addresses to the petitioner. Following

granting of a motion for intervention, the department shall, upon request, provide a copy of the list of names and addresses to the intervenor.

NEW SECTION

WAC 316-25-150 AMENDMENT AND WITHDRAWAL. Any petition may be amended or withdrawn by the petitioner under such conditions as the commission may impose.

NEW SECTION

WAC 316-25-170 INTERVENTION—BY INCUMBENT REPRESENTATIVE. An organization which demonstrates that it has been the exclusive representative of all or any part of the bargaining unit involved in proceedings under this chapter during the year preceding the filing of the petition may, by motion, intervene in the proceedings and, upon granting of its motion for intervention, shall be entitled to participate in the proceedings and to have its name listed as a choice on the ballot in any election. No motion for intervention shall be considered if made after the close of the hearing on the petition or more than seven days after the filing and posting of an election agreement or cross-check agreement.

NEW SECTION

WAC 316-25-190 INTERVENTION—BY ORGANIZATION OTHER THAN INCUMBENT. An organization not covered by WAC 316-25-170 may, by motion, intervene in proceedings under this chapter and, upon granting of its motion for intervention, shall be entitled to participate in the proceedings and have its name listed as a choice on the ballot in any election. The motion for intervention shall be supported by a showing of interest indicating that the intervenor has the support of not less than ten percent of the employees in the bargaining unit which the petitioner claims to be appropriate or of not less than thirty percent of the employees in whatever different bargaining unit the intervenor claims to be appropriate. The showing of interest must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate during the ninety-day period preceding the filing of such evidence with the commission. The showing of interest shall be made confidentially to the commission at or before the time the motion for intervention is made: **PROVIDED, HOWEVER,** That a motion for intervention may be granted conditionally subject to the subsequent furnishing of a showing of interest under such conditions as the commission may impose to avoid undue delay of the proceedings. No motion for intervention shall be considered if made after the close of the hearing on the petition or more than seven days after the filing and posting of an election agreement or cross-check agreement.

NEW SECTION

WAC 316-25-210 SHOWING OF INTEREST CONFIDENTIAL. The question of whether a showing

of interest requirement for a petition or for intervention has been satisfied is a matter for administrative determination by the commission and may not be litigated at any hearing. The commission shall not disclose the identities of employees whose authorization cards or letters are filed in support of a petition or motion for intervention. In order to preserve the confidentiality of the showing of interest and the right of employees freely to express their views on the selection of a bargaining representative, the commission shall not honor any attempt to withdraw or diminish a showing of interest.

NEW SECTION

WAC 316-25-230 ELECTION AGREEMENTS. Where the department and all other parties agree on a representation election, they may file an election agreement with the commission. Such election agreement shall contain:

(1) The name and address of the department and the name, address and telephone number of its principal representative.

(2) The names and addresses of all other parties participating in the election agreement and the names, addresses and telephone numbers of their principal representatives.

(3) A description of the bargaining unit agreed to be appropriate, specifying inclusions and exclusions, and the number of employees in such unit.

(4) A statement by all parties that: (a) No organization is known which is or may be entitled to intervene as an incumbent representative, or (b) the incumbent representative is a party to the election agreement, or (c) the incumbent representative has abandoned the unit as evidenced by documentation attached to the election agreement.

(5) A statement by all parties that no other organization is known which claims to represent any of the employees in the bargaining unit; that all parties agree that a question concerning representation exists; that a hearing is waived; and that the commission is requested to proceed to conduct an election and certify the results.

(6) A list, attached to the election agreement as an appendix, containing the names of the employees eligible to vote in the election and the eligibility cut-off date for the election. If the parties request that the election be conducted by mail ballot, the list shall include the last known address of each of the employees eligible to vote. If no eligibility cut-off date is specified by the parties, the eligibility cut-off date shall be the date on which the election agreement is filed.

(7) The suggestions of the parties as to the location, the day or days of the week and the time or times of day for the conduct of the election, or that the election be conducted by mail ballot.

(8) The signatures and, if any, the titles of all parties or their representatives.

The original and one copy of the election agreement shall be filed with the commission at its Olympia office, and copies shall be posted by the department in conspicuous places on the department's premises where notices to affected employees are usually posted. The election agreement shall remain posted for at least seven days

after it is filed with the commission (ten days after it is deposited in the United States mail addressed to the commission).

Upon the filing of an election agreement conforming to the foregoing requirements and seeking an election in an appropriate bargaining unit, the commission shall proceed to conduct an election. Objections to the election by a party to the election agreement shall be limited to matters relating to specific conduct affecting the results of the election.

NEW SECTION

WAC 316-25-250 CROSS-CHECK AGREEMENTS. Where only one organization is seeking certification as the representative of unrepresented employees, the department and the organization may file a cross-check agreement with the commission. Such cross-check agreement shall contain:

(1) The name and address of the department and the name, address and telephone number of its principal representative.

(2) The name and address of the organization and the name, address and telephone number of its principal representative.

(3) The description of the bargaining unit agreed to be appropriate, specifying inclusions and exclusions and the number of employees in such unit.

(4) A statement by the parties that no other organization is known which claims to represent any of the employees in the bargaining unit; that the parties agree that a question concerning representation exists; that a hearing is waived; and that the commission is requested to conduct and certify the results of a cross-check of individually signed and dated authorization cards or membership records submitted by the organization against the employment records of the department.

(5) A list, attached to the cross-check agreement as an appendix, containing the names of the employees in the bargaining unit.

(6) The suggestions of the parties as to the time and place where the records to be cross-checked can be made available to the commission.

(7) The agreement of the parties to be bound by the results of the cross-check.

(8) The signatures and, if any, the titles of the representatives of the parties.

The original and one copy of the cross-check agreement shall be filed with the commission at its Olympia office, and copies thereof shall be posted by the department in conspicuous places on the department's premises where notices to affected employees are usually posted. The cross-check agreement shall remain posted for at least seven days after it is filed with the commission (ten days after it is deposited in the United States mail addressed to the commission).

Upon the filing of a cross-check agreement conforming to the foregoing requirements and seeking a cross-check in an appropriate bargaining unit, the commission shall proceed with the cross-check of records. The cross-check may be conducted at any time following the execution of a cross-check agreement; but no certification shall be issued until seven days have elapsed following

the filing and posting of the cross-check agreement. Where a motion for intervention is timely filed and granted, no certification shall be issued on the basis of the cross-check.

NEW SECTION

WAC 316-25-270 SUPPLEMENTAL AGREEMENTS. Where the parties are able to agree generally on the matters to be set forth in an election agreement under WAC 316-25-230 or a cross-check agreement under WAC 316-25-250, but are unable to agree on limited issues concerning the definition of the bargaining unit or employee eligibility, they may expedite the determination of the question concerning representation while reserving their disagreement for subsequent determination by filing a supplemental agreement under this rule together with an agreement under WAC 316-25-230 or 316-25-250. Such supplemental agreement shall contain:

(1) The names of all parties to the election agreement or cross-check agreement and the case number of the proceedings.

(2) Identification of the employees or classifications as to which a dispute exists, together with the identification of the position taken by each party on the dispute.

(3) A statement by all parties requesting that employees affected by the supplemental agreement be permitted to vote by challenged ballot or be challenged for purposes of a cross-check, subject to a subsequent determination of the dispute; and that the certification of the results of the election or cross-check not be withheld pending the determination of the dispute unless the challenges are sufficient in number to affect the outcome.

(4) The signatures and, if any, the titles, of the representatives of the parties.

The original and one copy of the supplemental agreement shall be filed with the commission together with the agreement filed under WAC 316-25-230 or 316-25-250, and shall be posted with such agreement.

Upon the filing of a supplemental agreement, the commission shall proceed with the determination of the question concerning representation. If the challenges are sufficient in number to affect the outcome, they shall be determined prior to the issuance of a certification. Otherwise, a conditional certification shall be issued which shall be amended upon final disposition of the issues framed in the supplemental agreement.

NEW SECTION

WAC 316-25-290 NOTICE OF HEARING. After a petition has been filed, if it appears to the commission that there is reasonable cause to believe that a question concerning representation exists, there shall be issued and served on the department and on all organizations listed in the petition and on any organization having theretofore intervened, a notice of hearing before a hearing officer at a time and place fixed therein. The commission shall furnish the department with copies of such notice, and the department shall post them in conspicuous places on its premises where notices to affected

employees are usually posted. Any such notice of hearing may be amended or withdrawn before the close of the hearing.

NEW SECTION

WAC 316-25-310 HEARINGS—WHO SHALL CONDUCT. Hearings may be conducted by the commission, by a member of the commission or by any other individual designated by the commission as a hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

NEW SECTION

WAC 316-25-330 AUTHORITY OF HEARING OFFICER. The hearing officer shall have authority:

(1) To administer oaths and affirmations;

(2) To issue subpoenas in the name of the commission;

(3) To rule on objections to evidence and offers of proof, receive relevant evidence and exclude irrelevant, immaterial or unduly repetitious evidence;

(4) To question witnesses;

(5) To regulate the time, place and course of the hearing;

(6) To dispose of procedural requests or other similar matters;

(7) To hold conferences for the settlement, simplification or adjustment of issues; and

(8) To take any other action authorized by these rules.

NEW SECTION

WAC 316-25-350 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be limited to matters concerning the determination of the existence of a question concerning representation, the appropriate bargaining unit and questions of eligibility. It shall be the duty of the hearing officer to inquire fully into all matters in issue and to obtain a clear and complete factual record upon which the commission may discharge its duties under the pertinent statutes and these rules.

NEW SECTION

WAC 316-25-370 BLOCKING CHARGES—SUSPENSION OF PROCEEDINGS—REQUEST TO PROCEED. (1) Where representation proceedings have been commenced under this chapter and:

(a) A complaint charging unfair labor practices is filed under the provisions of chapter 316-45 WAC; and

(b) It appears that the facts as alleged may constitute an unfair labor practice; and

(c) Such unfair labor practice could improperly affect the outcome of a representation election; the commission may suspend the representation proceedings under this chapter pending the resolution of the unfair labor practice case.

(2) The complainant(s) in the unfair labor practice case may file a request to proceed, in writing, with the commission. Such request to proceed shall identify, by case number, the representation proceedings for which it

is made, shall request that those representation proceedings be continued notwithstanding the pending unfair labor practice case, and shall acknowledge that the commission will not entertain objections based on conduct alleged in the unfair labor practice case. Upon the filing of a request to proceed conforming to the foregoing requirements the commission shall resume the processing of the representation petition and shall summarily dismiss any objections filed in conflict with the request to proceed.

(3) Where a complaint charging unfair labor practices is filed after the filing of an election agreement or issuance of a direction of election, the commission shall proceed with the determination of the question concerning representation, subject to the right of any party to file objections as provided in WAC 316-25-590.

NEW SECTION

WAC 316-25-390 PROCEEDINGS BEFORE A HEARING OFFICER. The hearing officer may proceed forthwith upon the record, after submission of briefs or after hearing, as may be appropriate. The hearing officer shall determine whether a question concerning representation exists, and shall issue a direction of election, dismiss the petition or make other disposition of the matter. Such actions shall be subject to review by the commission only as follows:

(1) Except for rulings as to whether the department is subject to the jurisdiction of the commission, a direction of election and any accompanying rulings shall not be subject to review by the commission except upon objections timely filed under WAC 316-25-590.

(2) An order of dismissal shall be subject to review by the commission on its own motion or at the request of any party made within twenty days following the date of the order. Briefs or written arguments shall be submitted as provided in WAC 316-25-650. Unless the matter is transferred to the commission for review, an order of dismissal issued by the hearing officer shall have the same force and effect as if issued by the commission.

NEW SECTION

WAC 316-25-410 CROSS-CHECK OF RECORDS. Where a cross-check of records is to be conducted to determine a question concerning representation, the organization shall submit to the commission original individual cards or letters signed and dated by employees in the bargaining unit not more than ninety days prior to the filing of the petition and indicating that such employees authorize the named organization to represent them for the purposes of collective bargaining, or shall submit to the commission membership records maintained by the organization as a part of its business records containing the names of employees and indicating those employees currently members in good standing. The department shall make available to the commission original employment records maintained as a part of its business records containing the names and signatures of the employees in the bargaining unit. Prior to the commencement of the cross-

check, the organization may file a request that the question concerning representation be determined by a representation election and such requests shall be honored. Where the organization files a disclaimer or a request for election after the commencement of the cross-check, the cross-check shall be terminated and the organization shall not seek to be certified in the bargaining unit for a period of at least one year thereafter. All cross-checks shall be by actual comparison of records submitted by the parties. The commission shall not disclose the names of employees giving representation authorization in favor of or appearing on the membership rolls of the organization. Upon the conclusion of the comparison of records, the commission officer conducting the cross-check shall prepare and furnish to the parties a tally sheet containing the number of employees in the bargaining unit, the number of employee records examined and the number of employee records counted as valid evidence of representation.

NEW SECTION

WAC 316-25-430 NOTICE OF ELECTION. When an election is to be conducted, the commission shall furnish the department with appropriate notices, and the department shall post them in conspicuous places on its premises where notices to affected employees are usually posted. The notice shall contain:

(1) The description of the bargaining unit or voting group(s) in which the election is to be conducted.

(2) The date(s), hours and polling place(s) for the election.

(3) The cut-off date, if any, or other criteria to be applied in establishing eligibility to vote in the election.

(4) A statement of the purpose of the election and the question to be voted upon or a sample ballot.

Notices of the election shall be posted for at least seven days prior to the opening of the polls. In computing such period, the day of posting shall be counted, but the day on which the polls are opened shall not be counted. The reproduction of any document purporting to suggest, either directly or indirectly, that the commission endorses a particular choice may constitute grounds for setting aside an election upon objections properly filed.

NEW SECTION

WAC 316-25-450 DISCLAIMERS. An organization may file a disclaimer and have its name removed from the ballot: PROVIDED, HOWEVER, That if such a disclaimer is filed after the issuance of a notice of election, the organization filing the disclaimer shall not seek to be certified in that bargaining unit for a period of at least one year thereafter.

NEW SECTION

WAC 316-25-470 ELECTIONEERING. (1) The department and employee organizations are prohibited from making election speeches on the department's time to massed assemblies of employees within twenty-four hours before the scheduled time for the opening of the polls.

(2) There shall be no electioneering at or about the polling place during the hours of voting.

Violations of this rule shall be grounds for setting aside an election upon objections properly filed.

NEW SECTION

WAC 316-25-490 ELECTION PROCEDURES—BALLOTING. All elections shall be by secret ballot. Multiple questions, including unit determination elections, may be submitted to employees at the same time on separate ballots. Absentee balloting shall not be allowed. Each party may be represented by observers of its own choosing, subject to such limitations as the commission may prescribe: **PROVIDED, HOWEVER,** That no management official having authority over bargaining unit employees nor any officer or paid employee of an organization shall serve as observer.

NEW SECTION

WAC 316-25-510 CHALLENGED BALLOTS. Any observer or the election officer may challenge, for good cause, the eligibility of any person seeking to cast a ballot in the election. No person shall be denied the right to cast a challenged ballot. The election officer shall not have authority to resolve challenges at the polls, and the ballot of the challenged voter shall be placed in a sealed envelope identifying the voter and the observer or election officer challenging the eligibility of the voter. The ballot shall not be opened until the challenge is resolved. Any party may withdraw a challenge previously made and, unless the eligibility of the voter is challenged by another party or by the election officer, the challenge shall thereby be resolved. If the challenged ballots are insufficient in number to affect the results of the election, they shall be impounded and no ruling shall be made thereon. If the challenged ballots are sufficient in number to affect the results of the election, the election officer shall, after the close of the polls, ascertain the position of each party as to each challenged ballot and shall include such information in his report. If challenges raise material questions of fact which cannot be resolved without a hearing, there shall be issued and served on each of the parties a notice of hearing before the commission or a hearing officer. The rules relating to the conduct of hearings on petitions shall govern hearings on challenges, except that the scope of the hearing shall be limited to matters relevant to the disposition of the challenged ballots. The hearing officer shall have authority to rule on all challenges except those made by a party to preserve an objection to a ruling previously made by the commission as to the eligibility of the challenged voter. If challenges of a type excepted from the authority of the hearing officer are sufficient in number to affect the results of the election, the matter shall be transferred to the commission for its determination under the provisions of WAC 316-25-670.

NEW SECTION

WAC 316-25-530 VOTES NEEDED TO DETERMINE ELECTION. (1) Unit determination elections shall be decided by a majority of those eligible to vote in the election.

(2) Representation elections shall be decided by a majority of those voting. Where there are only two choices on the ballot, a tie vote shall result in a certification of no representative.

NEW SECTION

WAC 316-25-550 TALLY SHEET. Upon closing the polls, the election officer shall prepare and furnish to each of the parties a tally of the votes cast on unchallenged ballots and the number of challenged ballots. After the subsequent resolution of challenged ballots affecting the results of the election, a revised tally shall be issued and furnished to the parties. The tally shall indicate whether the results of the election were conclusive or inconclusive.

NEW SECTION

WAC 316-25-570 PROCEDURE FOLLOWING INCONCLUSIVE ELECTION. In any election in which there are more than two choices on the ballot, if none of the choices receives the number of votes necessary to determine the election, a run-off election shall be held providing for selection between the two choices receiving the largest numbers of valid ballots cast in the inconclusive election. Any organization to be excluded from a run-off election may file objections to specific conduct affecting the results of the inconclusive election. Where the choice of "no representative" is to be excluded from a run-off election, the department or decertification petitioner may file objections to specific conduct affecting the results of the inconclusive election. Such objections shall be resolved prior to the conduct of a run-off election. All run-off elections shall be determined as provided in WAC 316-25-530.

NEW SECTION

WAC 316-25-590 FILING AND SERVICE OF OBJECTIONS. Within seven days after the tally has been served under WAC 316-25-410 or under WAC 316-25-550, any party may file objections with the commission. Objections may consist of:

(1) Designation of specific conduct improperly affecting the results of the election, by violation of these rules, by the use of deceptive campaign practices improperly involving the commission and its processes, by the use of forged documents, or by coercion or intimidation of or threat of reprisal or promise of reward to eligible voters; and/or

(2) Designation of one or more previous rulings or directions in the matter which the objecting party desires to have reviewed by the commission.

Objections shall contain, in separate numbered paragraphs, statements of the specific conduct, if any, alleged to have improperly affected the results of the election

and, in separate numbered paragraphs, the specific rulings or directions, if any, which the party filing the objections desires to have reviewed. The original and three copies of the objections shall be filed with the commission at its Olympia office, and the party filing the objections shall serve a copy on each of the other parties to the proceedings. Objections must be timely filed, whether or not challenged ballots are sufficient in number to affect the results of the election.

NEW SECTION

WAC 316-25-610 PROCEDURE WHERE NO OBJECTIONS ARE FILED. If no objections are filed within the time set forth above, and if any challenged ballots are insufficient in number to affect the determination of the question concerning representation, and if no run-off election is to be held, the election officer shall forthwith certify the results of the proceedings, with the same force and effect as if issued by the commission. The proceedings will thereupon be closed.

NEW SECTION

WAC 316-25-630 PROCEDURE WHERE OBJECTIONS ARE FILED. (1) Objections to conduct improperly affecting the results of an election may be referred to a hearing officer for investigation. If the objections raise material questions of fact which cannot be resolved without a hearing, there shall be issued and served on each of the parties a notice of hearing before said hearing officer. Hearings on objections to conduct affecting the results of an election may be consolidated with hearings on challenged ballots in the same proceeding. The rules relating to the conduct of hearings on petitions shall govern hearings on objections, except that the scope of the hearing shall be limited to matters relevant to the disposition of the objections.

(2) Objections to prior rulings and/or directions in the matter shall be referred directly to the commission.

NEW SECTION

WAC 316-25-650 BRIEFS AND WRITTEN ARGUMENTS ON OBJECTIONS. All parties shall be entitled to submit briefs or written arguments for consideration by the commission. The briefs or written arguments of all parties shall be due simultaneously, as follows:

(1) The deadline for the filing of briefs or written arguments shall be fourteen days following the later of:

(a) The close of an investigation under WAC 316-25-630(1);

(b) The issuance of a transcript of a hearing held under WAC 316-25-630(1); or

(c) The filing of objections under WAC 316-25-590(2).

(2) The commission or its designee may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established.

The original and three copies of any brief or written argument shall be filed with the commission at its

Olympia office and a copy shall be served on each of the other parties.

NEW SECTION

WAC 316-25-670 COMMISSION ACTION ON OBJECTIONS. In all cases where objections have been filed, the entire record in the proceedings shall be transferred to the commission. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues in the matter. The commission shall determine the objections and any challenged ballots referred to the commission pursuant to WAC 316-25-510, and shall issue appropriate orders.

Chapter 316-35 WAC MARINE EMPLOYEES' UNIT CLARIFICATION CASE RULES

NEW SECTION

WAC 316-35-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the marine employees' commission on petitions for clarification of existing bargaining units. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 316-02 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the marine employees' commission.

(2) Chapter 316-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of ferry system employees.

(3) Chapter 316-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices in the Washington state ferry system.

(4) Chapter 316-55 WAC, which contains rules relating to resolution of impasses occurring in ferry system collective bargaining.

(5) Chapter 316-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

(6) Chapter 316-75 WAC, which contains rules relating to determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

NEW SECTION

WAC 316-35-010 PETITION FOR CLARIFICATION OF AN EXISTING BARGAINING UNIT—WHO MAY FILE. In the absence of a question concerning representation, a petition for clarification of an existing bargaining unit may be filed by the department of transportation, an exclusive representative or its agents, or by the parties jointly.

NEW SECTION

WAC 316-35-030 PETITION FORM—NUMBER OF COPIES—FILING—SERVICE. Each petition for clarification of an existing bargaining unit shall

be prepared on a form furnished by the commission or shall be prepared in conformance with WAC 316-35-050. The original and three copies of the petition shall be filed with the agency at its Olympia office. If the petition is filed other than as a jointly filed petition, the party filing the petition shall serve a copy on the other party to the collective bargaining relationship in which the disagreement arises.

NEW SECTION

WAC 316-35-050 CONTENTS OF PETITION. Each petition for clarification of an existing bargaining unit shall contain:

(1) The name and address of the department and the name, address and telephone number of the department's principal representative for the purposes of collective bargaining.

(2) The name, address and affiliation, if any, of the exclusive representative, and the name, address and telephone number of its principal representative.

(3) The description of the existing bargaining unit, specifying inclusions and exclusions and the number of employees in such bargaining unit.

(4) Identification of the proceeding in which any certification of representatives was issued or the date of the recognition agreement, and the history of any modifications of the bargaining unit subsequent thereto.

(5) A description of the proposed clarification, including the position(s), classification(s) or group(s) in issue, the number of employees in each such position, classification or group, the present bargaining unit inclusion or exclusion status of each such position, classification or group and identification of the party proposing that the present status be changed.

(6) The names and addresses of any other employee organizations claiming to represent any employees affected by the proposed clarification(s), and brief description(s) of the contracts, if any, covering such employees.

(7) A statement of the reasons for the proposed clarification.

(8) Any other relevant facts.

(9) The signature(s) and, if any, the title(s) of the representative(s) of the petitioner(s).

NEW SECTION

WAC 316-35-070 AMENDMENT AND WITHDRAWAL. Any petition may be amended or withdrawn by the petitioner(s) under such conditions as the commission may impose.

NEW SECTION

WAC 316-35-090 NOTICE OF HEARING. After a petition for clarification of an existing bargaining unit has been filed, if it appears to the commission that a disagreement exists which might appropriately be the subject of an order clarifying an existing bargaining unit, there shall be issued and served on the employer and on the exclusive representative a notice of hearing

before a hearing officer at a time and place fixed therein. Any such notice may be amended or withdrawn prior to the close of the hearing.

NEW SECTION

WAC 316-35-110 CONSOLIDATION OF PROCEEDINGS. If a proceeding initiated by a petition for clarification under WAC 316-35-010 is pending at the same time as a proceeding involving all or any part of the same bargaining unit initiated by a petition for investigation of a question concerning representation filed pursuant to WAC 316-25-010, the proceedings shall be consolidated and all issues concerning the description of the bargaining unit shall be resolved in the consolidated proceedings.

NEW SECTION

WAC 316-35-130 HEARINGS—WHO SHALL CONDUCT. Hearings may be conducted by the commission, by a member of the commission, or by any other individual designated by the commission as a hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

NEW SECTION

WAC 316-35-150 AUTHORITY OF HEARING OFFICER. The hearing officer shall have the authority:

(1) To administer oaths and affirmations;

(2) To issue subpoenas in the name of the commission;

(3) To rule upon objections to evidence and offers of proof, to receive relevant evidence, and to exclude irrelevant, immaterial or unduly repetitious evidence;

(4) To question witnesses;

(5) To regulate the time, place and course of the hearing;

(6) To dispose of procedural requests or other procedural matters;

(7) To hold conferences for the settlement, simplification or adjustment of issues; and

(8) To take any other action authorized by these rules.

NEW SECTION

WAC 316-35-170 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be limited to matters concerning the determination of the petition for clarification of an existing bargaining unit. It shall be the duty of the hearing officer to inquire fully into all matters in issue and to obtain a full and complete factual record upon which the commission may discharge its duties under the pertinent statutes and these rules.

NEW SECTION

WAC 316-35-190 PROCEEDINGS BEFORE A HEARING OFFICER. The hearing officer may proceed forthwith upon the record, after submission of briefs or after hearing, as may be appropriate. The hearing officer shall determine the status of each position, classification

or group of employees over which there is a disagreement and issue an order clarifying bargaining unit, dismiss the petition or make other disposition of the matter.

NEW SECTION

WAC 316-35-210 PROCEEDINGS BEFORE THE COMMISSION—PETITION FOR REVIEW. The final order of the hearing officer shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days after the date of the order. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall identify the actions or rulings claimed to be in error. Any party to the proceeding may, within fourteen days after the filing of the petition for review, file briefs or written arguments for consideration by the commission. The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served on the other party. The commission or a designee of the commission may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues.

NEW SECTION

WAC 316-35-230 FILING AND SERVICE OF CROSS-PETITION FOR REVIEW. Where a petition for review has been timely filed under WAC 316-35-210, any party who has not previously filed a petition for review may, within seven days after the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition for review shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadline for the submission of briefs or written arguments shall be extended by seven days.

NEW SECTION

WAC 316-35-250 COMMISSION ACTION. The hearing officer shall transfer the entire record in the proceeding to the commission. The commission shall determine the status of each position, classification or group covered by the petition for review, and shall issue appropriate orders.

Chapter 316-45 WAC UNFAIR LABOR PRACTICE CASE RULES

NEW SECTION

WAC 316-45-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the marine employees' commission on complaints charging unfair labor practices. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 316-02 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the marine employees' commission.

(2) Chapter 316-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of ferry system employees.

(3) Chapter 316-35 WAC, which contains rules relating to petitions for clarification of existing ferry system employees' bargaining units.

(4) Chapter 316-55 WAC, which contains rules relating to resolution of impasses occurring in ferry system collective bargaining.

(5) Chapter 316-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

(6) Chapter 316-75 WAC, which contains rules relating to determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

NEW SECTION

WAC 316-45-010 COMPLAINT CHARGING UNFAIR LABOR PRACTICES—WHO MAY FILE. A complaint charging that any person has engaged in or is engaging in an unfair labor practice, hereinafter referred to as a "complaint" may be filed by any employee, group of employees, employee organization, the department of transportation, or their agents.

NEW SECTION

WAC 316-45-030 FORM—NUMBER OF COPIES—FILING—SERVICE. Charges shall be in writing, in the form of a complaint of unfair labor practices. The original and three copies shall be filed with the commission at its Olympia office. The party filing the complaint shall serve a copy on each party named as a respondent.

NEW SECTION

WAC 316-45-050 CONTENTS OF COMPLAINT CHARGING UNFAIR LABOR PRACTICES. Each complaint shall contain, in separate numbered paragraphs:

(1) The name and address of the party filing the complaint, hereinafter referred to as the complainant, and the name, address and telephone number of its principal representative.

(2) The name(s) and address(es) of the person(s) charged with engaging in, or having engaged in, unfair labor practices, hereinafter referred to as the respondent(s), and, if known, the names, addresses and telephone numbers of the principal representatives of the respondent(s).

(3) Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences.

(4) A listing of the sections of the Revised Code of Washington (RCW) alleged to have been violated.

(5) A statement of the relief sought by the complainant.

(6) The signature and, if any, the title of the person filing the complaint.

NEW SECTION

WAC 316-45-070 AMENDMENT. Any complaint may be amended upon motion made by the complainant.

NEW SECTION

WAC 316-45-090 WITHDRAWAL. Any complaint may be withdrawn by the complainant under such conditions as the commission may impose.

NEW SECTION

WAC 316-45-110 INITIAL PROCESSING OF COMPLAINT. The commission or its designee shall determine whether the facts as alleged may constitute an unfair labor practice within the meaning of section 4, chapter 15, Laws of 1983 (RCW _____). If it is determined that the facts as alleged do not, as a matter of law, constitute a violation, the commission or designee shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor; otherwise, the commission or designee shall cause the contents of the charge to be issued and served as a complaint of unfair labor practices, shall assign the matter to an examiner and shall notify the parties of such assignment. An order of dismissal issued pursuant to this section shall be subject to a petition for review as provided in WAC 316-45-350.

NEW SECTION

WAC 316-45-130 EXAMINER—WHO MAY ACT. The examiner may be a member of the commission or any other individual designated by the commission. Upon notice to all parties, an examiner may be substituted for the examiner previously presiding.

NEW SECTION

WAC 316-45-150 AUTHORITY OF EXAMINER. The examiner shall have the authority:

- (1) To administer oaths and affirmations;
- (2) To issue subpoenas in the name of the commission;
- (3) To rule upon objections to evidence and offers of proof, receive relevant evidence and to exclude irrelevant, immaterial or unduly repetitious evidence;
- (4) To question witnesses;
- (5) To regulate the time, place, and course of the hearing;
- (6) To dispose of procedural requests or other similar matters;
- (7) To hold conferences for the settlement, simplification or adjustment of issues;
- (8) To make and issue findings of fact, conclusions of law and orders;
- (9) To take any other action authorized by these rules.

NEW SECTION

WAC 316-45-170 NOTICE OF HEARING. The examiner shall issue and cause to be served on the parties a notice of hearing at a time and place specified therein. Attached to the notice of hearing shall be a copy of the complaint as approved under WAC 316-45-110. The notice of hearing shall specify the date for the filing of an answer, which shall be not less than ten days prior to the date set for hearing. Any such notice of hearing may be amended or withdrawn before the close of the hearing.

NEW SECTION

WAC 316-45-190 ANSWER—FILING AND SERVICE. The respondent(s) shall, on or before the date specified therefor in the notice of hearing, file with the examiner the original and three copies of its answer to the complaint, and shall serve a copy on the complainant.

NEW SECTION

WAC 316-45-210 ANSWER—CONTENTS AND EFFECT OF FAILURE TO ANSWER. An answer filed by a respondent shall specifically admit, deny or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. The failure of a respondent to file an answer or the failure to specifically deny or explain in the answer a fact alleged in the complaint shall, except for good cause shown, be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of the respondent of a hearing as to the facts so admitted.

NEW SECTION

WAC 316-45-230 AMENDMENT OF ANSWER. The respondent may amend its answer at any time prior to the hearing. During the hearing or subsequent thereto, it may amend its answer in any case where the complaint has been amended, within such period as may be fixed by the examiner or the commission. Whether or not the complaint has been amended, the answer may, in the discretion of the examiner or the commission, be amended upon motion under such terms and within such period as may be fixed by the examiner or the commission.

NEW SECTION

WAC 316-45-250 MOTION TO MAKE COMPLAINT MORE DEFINITE AND CERTAIN. If a complaint is alleged by a respondent to be so indefinite as to hamper the respondent in the preparation of its answer, such respondent may, on or before the date specified for the filing of an answer, file a motion requesting an order directing that the complaint be made more definite and certain. Such motion shall be filed with the examiner and served by the moving party on the complainant and on any other parties. The filing of

such motion will extend the time during which the respondent must file and serve an answer until such date as the commission or examiner may set. The examiner may require the complainant to file and serve a statement supplying information necessary to make the complaint definite and certain.

NEW SECTION

WAC 316-45-270 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be adversary in nature, limited to matters concerning the unfair labor practices alleged in the complaint. The complainant shall prosecute its own complaint and shall have the burden of proof. It shall be the duty of the examiner to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice so as to obtain a clear and complete factual record on which the examiner and commission may discharge their duties under these rules: **PROVIDED, HOWEVER,** That such duty of the examiner shall not be construed as authorizing or requiring the examiner to undertake the responsibilities of the complainant with respect to the prosecution of its complaint or of the respondent with respect to the presentation of its defense.

NEW SECTION

WAC 316-45-290 BRIEFS AND PROPOSED FINDINGS. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings of fact, conclusions of law and order, or both, at such time as may be fixed by the examiner. The examiner may direct the filing of briefs when he or she deems such filing warranted by the nature of the proceeding or of particular issues therein.

NEW SECTION

WAC 316-45-310 EXAMINER DECISION. After the close of the hearing and the filing of all briefs, the examiner shall make a decision containing findings of fact, conclusions of law and order. The examiner shall file the original decision with the commission and shall cause a copy thereof to be served on each of the parties.

NEW SECTION

WAC 316-45-330 WITHDRAWAL OR MODIFICATION OF EXAMINER DECISION. On the examiner's own motion or on the motion of any party, the examiner may set aside, modify, change or reverse any findings of fact, conclusions of law or order at any time within twenty days following the issuance thereof, if any mistake is discovered therein or upon grounds of newly discovered evidence which could not with reasonable diligence have been discovered and produced at the hearing: **PROVIDED, HOWEVER,** That this section shall be inoperative after the filing of a petition for review with the commission.

NEW SECTION

WAC 316-45-350 PETITION FOR REVIEW OF EXAMINER DECISION. The examiner's findings of

fact, conclusions of law and order shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days following the date of the order issued by the examiner. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on each of the other parties to the proceeding. Such petition for review shall contain, in separate numbered paragraphs, statements of the specific findings, conclusions, orders or rulings on which the party filing the petition seeks review by the commission. A petition for review shall have attached to it any appeal brief or written argument which the party filing the petition for review desires to have considered by the commission. Other parties to the proceeding shall have fourteen days following the date on which they are served with a copy of such petition for review and accompanying brief or written argument to file a responsive brief or written argument. The commission or its designee may, for good cause, grant any party an extension of the time for filing of its brief or written argument. In the event no timely petition for review is filed, and no action is taken by the commission on its own motion within thirty days following the examiner's final order, the findings of fact, conclusions of law and order of the examiner shall automatically become the findings of fact, conclusions of law and order of the commission and shall have the same force and effect as if issued by the commission.

NEW SECTION

WAC 316-45-370 FILING AND SERVICE OF CROSS-PETITION FOR REVIEW. Where a petition for review has been timely filed under WAC 316-45-350, any party who has not previously filed a petition for review may, within seven days after the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadlines for the submission of briefs or written arguments shall be extended by seven days.

NEW SECTION

WAC 316-45-390 COMMISSION ACTION. On its own motion, or on the filing of a petition for review, the entire record in the proceeding shall be transferred to the commission, and thereafter all motions and arguments shall be directed to the commission. The commission may request the parties to appear before it to make oral arguments as to certain of the issues or all of the issues in the matter. The commission shall, on the basis of the record and any briefs or arguments submitted to it on review, determine the matter.

NEW SECTION

WAC 316-45-410 UNFAIR LABOR PRACTICE REMEDIES. If an unfair labor practice is found to have been committed, the commission or its examiner shall issue a remedial order. In calculating back pay orders, the following shall apply:

(1) Employee(s) reinstated to employment with back pay shall have deducted from any amount due an amount equal to any earnings such employee(s) may have received during the period of the violation in substitution for the terminated employment, calculated on a quarterly basis.

(2) Employee(s) reinstated to employment with back pay shall have deducted from any amount due an amount equal to any unemployment compensation benefits such employee(s) may have received during the period of the violation, and the employer shall provide evidence to the commission that such amount has been repaid to the Washington state department of employment security as credit to the benefit record of the employee(s).

(3) Money amounts due shall be subject to interest at the rate which would accrue on a civil judgment of the Washington state courts, from the date of the violation to the date of payment.

NEW SECTION

WAC 316-45-430 MOTION FOR TEMPORARY RELIEF. In addition to the remedies available under WAC 316-45-410, any complainant in an unfair labor practice proceeding may file a motion requesting that the commission seek appropriate temporary relief through the superior court, and all such motions shall be processed as provided in this section.

(1) The complainant shall, at the time its complaint is filed or as soon thereafter as facts giving rise to the request for temporary relief become known, provide written notice to the commission or its designee of its intent to make a motion for temporary relief and shall, at the same time, serve a copy of such notice on each of the other parties to the proceedings.

(2) Upon the filing of a notice of intent to make a motion for temporary relief, the commission or its designee shall expedite the processing of the matter under WAC 316-45-110.

(3) After the determination of the commission or designee that the complaint states a cause of action, any complainant desiring temporary relief may file with the commission or designee a motion for temporary relief together with affidavits as to the risk of irreparable harm and the adequacy of legal remedies, and shall serve a copy of such motion and affidavits on all other parties to the proceedings. The other parties shall have seven calendar days thereafter to file and serve counter-affidavits.

(4) The designee shall forward all such motions and affidavits to the commission, which shall determine whether an injunction pendente lite should be sought. In making such determination, the commission shall adhere to the following policy:

"The name and authority of the marine employees' commission shall not be invoked in connection with a request for temporary relief prior to the completion of administrative proceedings under WAC 316-45-010, et seq., unless it appears that one or more of

the allegations in the complaint of unfair labor practices is of such a nature that, if sustained, the complainant would have no fair or adequate remedy and the complainant would suffer irreparable harm unless the status quo be preserved pending the completion of administrative proceedings."

(a) If the commission concludes that temporary relief should be sought, the commission or its designee with the assistance of the attorney general, shall petition the superior court of Thurston county or the county wherein the person who is alleged to be engaging in unfair labor practices resides or transacts business for an injunction pendente lite.

(b) Whenever temporary relief has been procured, the complaint which has been the basis for such temporary relief shall be heard expeditiously and the case shall be given priority over all other cases except cases of like character.

(c) If the commission concludes that temporary relief should not be sought prior to the conclusion of administrative proceedings in the matter, such determination shall not bar renewal of the request for temporary relief following the completion of administrative proceedings in which unfair labor practice violations have been found to exist.

NEW SECTION

WAC 316-45-550 COLLECTIVE BARGAINING—POLICY. It is the policy of the commission to promote bilateral collective bargaining negotiations between the department and the exclusive representatives of its employees in accordance with sections 1 and 4, chapter 15, Laws of 1983 (RCW _____). Such parties are encouraged to engage in free and open exchange of proposals and positions on all matters coming into the dispute between them. The commission deems the determination as to whether a particular subject is mandatory or nonmandatory to be a question of law and fact to be determined by the commission, and which is not subject to waiver by the parties by their action or inaction. It is the policy of the commission that a party which engages in collective bargaining with respect to any particular issue does not and cannot thereby confer the status of a mandatory subject on a nonmandatory subject.

Chapter 316-55 WAC MARINE EMPLOYEES' IMPASSE RESOLUTION RULES

NEW SECTION

WAC 316-55-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the marine employees' commission relating to the resolution of impasses occurring in collective bargaining. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 316-02 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the marine employees' commission.

(2) Chapter 316-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of ferry system employees.

(3) Chapter 316-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing ferry system employees' bargaining unit.

(4) Chapter 316-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices in the Washington state ferry system.

(5) Chapter 316-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

(6) Chapter 316-75 WAC, which contains rules relating to determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

NEW SECTION

WAC 316-55-010 RESOLUTION OF IMPASSES—REQUEST FOR MEDIATION. In the absence of an impasse agreement between parties, or the failure of either party to utilize the procedures of such impasse agreement by August 1st in each odd-numbered year, either party may make a request in writing to the marine employees' commission for mediation.

NEW SECTION

WAC 316-55-020 MEDIATION REQUEST—INFORMATION REQUIRED. The party or parties requesting mediation shall provide the following information to the commission:

(1) The name and address of the department and the name, address and telephone number of the department's principal representative in the negotiations;

(2) The name and address of the employee organization and the name, address and telephone number of the employee organization's principal representative in the negotiations;

(3) The name and address of the association or other organization, if any, filing the request on behalf of the employer or exclusive representative seeking mediation;

(4) A clear and concise statement of the disputed issues and the parties' positions in relation thereto;

(5) A description of the size and composition of the bargaining unit involved;

(6) The expiration date of any collective bargaining agreement then in effect or recently expired;

(7) Any other relevant information; and

(8) The name, signature, and capacity of each officer, attorney, or other individual acting for the filing party or parties.

NEW SECTION

WAC 316-55-030 IMPASSE RESOLUTION—APPOINTMENT OF MEDIATOR. Upon the filing of a request for mediation, the commission shall appoint a mediator from the list of qualified, impartial, and disinterested persons maintained by the commission for that

purpose. If the parties have stipulated the names of one or more persons who are acceptable to both parties as mediator, then the commission shall consider their desires.

NEW SECTION

WAC 316-55-050 IMPASSE RESOLUTION—SUBMISSION OF WRITTEN PROPOSALS. Parties requesting the mediation services of the commission are encouraged to file with the appointed mediator, in advance of scheduled meetings, copies of their latest written proposals on each issue in dispute.

NEW SECTION

WAC 316-55-070 IMPASSE RESOLUTION—FUNCTION OF MEDIATOR. The mediator shall meet with the parties or their representatives, or both, either jointly or separately, and shall take such steps as the mediator deems appropriate in order to aid the parties in voluntarily resolving their differences and effecting an agreement. The mediator shall not compel the parties to agree.

NEW SECTION

WAC 316-55-090 IMPASSE RESOLUTION—CONFIDENTIAL NATURE OF FUNCTION. Information disclosed by the parties to the mediator in confidence during the course of mediation shall not be divulged by the mediator. Mediation meetings shall be of an executive, private or nonpublic nature.

NEW SECTION

WAC 316-55-110 IMPASSE RESOLUTION—DISPUTE RESOLUTION PANEL. The commission shall establish and maintain a panel of qualified persons and shall make a list of members of that panel available to parties for their use in selecting a neutral chairman for an arbitration panel, a grievance arbitrator, a fact-finder or an ad hoc interest arbitrator. Any person may apply for membership on the panel and, upon acceptance by the commission, shall be placed under contract pursuant to RCW 39.29.010.

NEW SECTION

WAC 316-55-130 IMPASSE RESOLUTION—DISCLOSURE. Prior to accepting the appointment, or as soon thereafter as information giving rise to a problem of appearance of fairness becomes known, a person serving in an impartial capacity in a dispute resolution proceeding under the jurisdiction of the commission shall disclose to the parties any circumstances likely to create an appearance of bias or which might disqualify him or her from serving in the impartial capacity. Employment of the person or any member of his or her immediate family by any party shall be disqualifying. Each party to the proceeding shall immediately notify the commission and the appointee or selectee whether it is willing to waive disqualification. If either party declines to waive the disqualification, the appointment shall be vacated.

NEW SECTION

WAC 316-55-150 IMPASSE RESOLUTION—VACANCIES. If any person serving in an impartial capacity in dispute resolution proceedings under the jurisdiction of the commission should resign, die, withdraw, refuse or be unable to serve, or should be or become disqualified to perform the duties of the office, the commission or its designee shall declare the office vacant. The vacancy shall be filled as provided in these rules.

NEW SECTION

WAC 316-55-160 FACT-FINDING. Prior to collective bargaining, the commission shall conduct a salary survey comparing wages, hours, employee benefits, and conditions of employment of involved ferry employees with those of private sector employees within the state and Washington state employees doing directly comparable work, giving consideration to factors peculiar to the area and the classifications involved. The commission shall make such other findings of fact as the parties may request during bargaining or impasse. The obtained salary survey data shall be a public document.

NEW SECTION

WAC 316-55-170 WAIVER OF MEDIATION AND FACT-FINDING. By mutual agreement, the parties may waive mediation and fact-finding and proceed with binding arbitration. Such waiver shall be in writing and signed by the representatives of the parties. If the parties waive mediation or fact-finding, impasse resolution shall be continued as provided in WAC 316-55-500 et seq.

NEW SECTION

WAC 316-55-500 BINDING ARBITRATION. If impasse persists fourteen days after the mediator has been appointed, or beyond any other date mutually agreed to by the parties, all impasse items shall be submitted to arbitration by giving written notice. Such notice shall contain:

- (1) The name and address of the department and the name, address and telephone number of the department's principal representative in the negotiations;
- (2) The name and address of the employee or employee organization party to the labor dispute and the name, address and telephone number of that party's principal representative in the negotiations;
- (3) The name and address of the organization, if any, filing the request on behalf of the employee, employee organization or department seeking arbitration;
- (4) A clear and concise statement of the disputed issues and the parties' positions in relation thereto;
- (5) A description of the size and composition of the bargaining unit involved;
- (6) The expiration date of any collective bargaining agreement then in effect or recently expired;
- (7) Any other relevant information; and
- (8) The name, signature and capacity of each officer, attorney or other representative acting for the filing party or parties.

The original and three copies of the notice shall be filed with the commission at its Olympia office. The party filing the notice shall serve a copy on each of the other parties to the labor dispute. Amendments to notices shall be filed and served in the same manner as the original notice in the proceeding.

NEW SECTION

WAC 316-55-505 FINAL OFFER. In addition to the information required in WAC 316-55-500, within four days of arbitration request, a final offer on the impasse items shall be submitted to the commission or its designee, with proof of service of a copy to the other party. Each party shall also submit a copy of a draft of the proposed collective bargaining agreement to the extent to which agreement has been reached and the name of its selected arbitrator. The parties may continue to negotiate all offers until an agreement is reached or a decision rendered by an arbitrator or panel of arbitrators.

NEW SECTION

WAC 316-55-510 SINGLE ARBITRATOR. The two parties may agree to submit their dispute to a single arbitrator. The full costs of arbitration under this procedure shall be shared equally by the parties to the dispute.

NEW SECTION

WAC 316-55-515 ARBITRATION PANEL. If the parties cannot agree on an arbitrator within four days, a panel consisting of three members shall be appointed in the following manner:

- (1) One member shall be appointed by the secretary of transportation;
- (2) One member shall be appointed by the ferry employee organization;
- (3) One member shall be appointed mutually by the members appointed by the secretary of transportation and the employee organization. The last member appointed shall be the chairman of the panel of arbitrators;
- (4) If the third member has not been selected within four days of notification as provided in subsection (3) of this section, a list of seven arbitrators shall be submitted to the parties by the marine employees' commission. The two arbitrators selected by ferry system management and the ferry employee organization shall determine by lot which arbitrator shall remove the first name from the list submitted by the commission. The second arbitrator and the first arbitrator shall alternately remove one additional name until only one name remains. The person whose name remains shall become the chairman of the panel of arbitrators and shall call a meeting within thirty days, or at such time mutually agreed to by the parties, at a location designated by him or her. In lieu of a list of seven nominees for the third member being submitted by the marine employees' commission, the parties may mutually agree to have either the Federal Mediation and Conciliation Service or the American Arbitration Association submit a list of seven nominees.

(5) Ferry system management and the employee organization shall each pay the fees and expenses incurred by the arbitrator each selected. The fee and expenses of the chairman of the panel shall be shared equally by each party.

(6) If a vacancy occurs on the panel of arbitrators, the selection for replacement of that member shall be in the same manner and within the same time limits as the original member was chosen.

(7) No final award may be made by the panel until three arbitrators have been chosen.

NEW SECTION

WAC 316-55-520 INTERVENTION AND CONSOLIDATION OF PROCEEDINGS. (1) Motion for intervention: Any person, not a party, who desires to appear and participate in any proceeding before the commission under this subchapter may make a written motion for intervention prior to the hearing or make an oral motion for intervention at the outset of the hearing. No such motion shall be filed or made after the hearing of evidence has commenced, except for good cause shown. The motion for intervention must state the name and address of the moving party; the name, address and telephone number of its principal representative, if any; the party's interest in the proceedings; and the party's position in regard to the labor dispute.

(2) Disposition of motion for intervention: Motions for intervention shall be considered first at all hearings, or may be set for prior hearing. An opportunity shall be afforded the original parties to be heard thereon. If it appears that the motion discloses an interest in the labor dispute or that participation by the moving party is in the public interest, the commission shall grant the motion. Thereafter, the moving party shall be a party to the proceedings with the same right to produce and cross-examine witnesses as the other parties. If it appears during the course of proceedings that an intervenor has no substantial interest therein, the commission may dismiss such intervenor.

(3) On its own motion or at the motion of any party, the commission may consolidate proceedings on two or more notices where the facts or principles of law are related.

NEW SECTION

WAC 316-55-525 CONDUCT OF INTEREST ARBITRATION. (1) The submission of the impasse items to the arbitrators shall be limited to those issues upon which the parties have not reached agreement. With respect to each such item, the arbitration panel award shall be restricted to the final offers on each impasse item submitted by the parties to the arbitration board on each impasse item.

(2) The panel of arbitrators shall at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed in section 15, chapter 15, Laws of 1983.

(3) From the time of appointment until such time as the panel of arbitrators makes its final determination, there shall be no discussion concerning recommendations

for settlement of the dispute by the members of the panel of arbitrators with parties other than those who are direct parties to the dispute. The panel of arbitrators may conduct formal or informal hearings to discuss offers submitted by both parties.

(4) The panel of arbitrators shall consider, in addition to any other relevant factors, the following factors:

(a) Past collective bargaining contracts between the parties including the bargaining that led up to the contracts;

(b) Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of private sector employees within the state and Washington state employees doing directly comparable work, giving consideration to factors peculiar to the area and the classifications involved;

(c) The interests and welfare of the public, the ability of the ferry system to finance economic adjustments, and the effect of the adjustments on the normal standard of services;

(d) The right of the legislature to appropriate and to limit funds for the conduct of the ferry system; and

(e) The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature.

(5) The chairman of the panel of arbitrators may hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate such powers to other members of the panel of arbitrators. The chairman of the panel of arbitrators may petition the superior court in Thurston county, or any county in which any hearing is held, to enforce the order of the chairman compelling the attendance of witnesses and the production of records.

(6) A majority of the panel of arbitrators shall within thirty days after its first meeting select the most reasonable offer, in its judgment, of the final offers on each impasse item submitted by the parties.

(7) The selections by the panel of arbitrators and items agreed upon by the ferry system management and the employee organization shall be deemed to be the collective bargaining agreement between the parties.

(8) The determination of the panel of arbitrators shall be by majority vote and shall be final and binding, subject to sections 9 and 10, chapter 15, Laws of 1983. The panel of arbitrators shall give written explanation for its selection and inform the parties of its decision.

(9) Two copies of the final award, including the written explanation required by subsection (8) of this section shall be filed with the commission.

NEW SECTION

WAC 316-55-600 CENTRAL FILING OF AGREEMENTS. The parties to collective bargaining agreements entered into as a result of collective bargaining pursuant to chapter 47.64 RCW shall file with the commission two complete copies of their agreement.

Chapter 316-65 WAC
MARINE EMPLOYEES' GRIEVANCE ARBITRATION RULES

NEW SECTION

WAC 316-65-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the marine employees' commission relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 316-02 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the marine employees' commission.

(2) Chapter 316-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of ferry system employees.

(3) Chapter 316-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing ferry system employees' bargaining unit.

(4) Chapter 316-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices in the Washington state ferry system.

(5) Chapter 316-55 WAC, which contains rules relating to the resolution of impasses occurring in ferry system collective bargaining.

(6) Chapter 316-75 WAC, which contains rules relating to determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

NEW SECTION

WAC 316-65-010 GRIEVANCE ARBITRATION—WHO MAY FILE. Where there is an agreement to arbitrate, a request for appointment of an arbitrator to hear and determine issues arising out of the interpretation or application of a collective bargaining agreement may be filed by the department of transportation, an exclusive representative of employees or their agents, an employee, or by the parties jointly: PROVIDED, That invoking arbitration shall be only with the approval of the employee organization, in accordance with chapter 47.64 RCW.

NEW SECTION

WAC 316-65-030 GRIEVANCE ARBITRATION—FILING—SERVICE. Each request for appointment of a grievance arbitrator shall be on a form furnished by the commission or shall be prepared by the party or parties filing the request in conformance with WAC 316-65-050. The original request shall be filed with the commission at its Olympia office. If the request is not filed jointly, the party filing the request shall serve a copy on the other party to the collective bargaining agreement under which the dispute arises.

NEW SECTION

WAC 316-65-050 GRIEVANCE ARBITRATION—CONTENTS OF REQUEST. Each request for appointment of a grievance arbitrator shall contain:

(1) The name, address and telephone number of the department and the name, address and telephone number of the department's principal representative for the purposes of collective bargaining.

(2) The name, address and telephone number of the exclusive representative and the name, address and telephone number of its principal representative.

(3) Identification of the request as: (a) A request for appointment of an arbitrator; (b) a request for arbitration of a grievance dispute arising under chapter 47.64 RCW; or (c) a request for the submission of a list of names from the dispute resolution panel created by WAC 316-55-110.

(4) A description of the grievances or issues to be submitted to arbitration and the number of employees affected thereby.

(5) The agreement of the requesting party, or the parties jointly, that the arbitrator's decision on the grievance shall not change or amend the terms, conditions, or applications of the collective bargaining agreement.

(6) The agreement of the requesting party, or the parties jointly, that the arbitration award be final and binding upon the parties.

(7) The signature(s) and, if any, title(s) of the representative(s) of the requesting party (parties).

NEW SECTION

WAC 316-65-090 GRIEVANCE ARBITRATION—DESIGNATION OF PANEL OF ARBITRATORS. Upon the filing of a request for a panel of arbitrators, the commission shall furnish the parties a list of names selected from the dispute resolution panel. The list shall contain five names unless a different number is specifically requested by the parties or is specified in their collective bargaining agreement. The commission shall furnish, whenever available, biographical information, including background, qualifications and experience, on each of the arbitrators on the list supplied to the parties. If one or more of those named is unavailable to accept appointment as arbitrator or must be disqualified, a substitute name will be provided upon the joint request of the parties. If all of those named are rejected by the parties, a second list will be provided upon the joint request of the parties. All contacts and arrangements between the parties and an arbitrator selected under this rule will be the responsibility of the parties.

NEW SECTION

WAC 316-65-110 GRIEVANCE ARBITRATION—CONDUCT OF PROCEEDINGS. The arbitrator assigned or selected shall conduct the arbitration proceedings in the manner provided in the collective bargaining agreement under which the dispute arises. All such arbitrators shall maintain compliance with the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputes" adopted by the National Academy of Arbitrators, the American Arbitration Association and the Federal Mediation and Conciliation Service in effect on December 1, 1977: PROVIDED,

HOWEVER, That arbitration matters handled by the commission or its designee(s) shall be filed in the public files of the commission and shall not be accorded the privacy required by such code.

NEW SECTION

WAC 316-65-130 GRIEVANCE ARBITRATION—AWARD. Any arbitrator assigned or selected under this chapter shall, after submission of the arbitration award to the parties, file a copy with the commission.

NEW SECTION

WAC 316-65-150 GRIEVANCE ARBITRATION—EXPENSES. Each party shall pay the expenses of presenting its own case and the expenses and fees of its member, if any, of an arbitration panel. The expenses of witnesses shall be paid by the party producing them. The fees and traveling expenses of an arbitrator selected by the parties from a panel designated by the commission and any costs for recording and/or transcription of proceedings shall be paid by the parties under the terms of their collective bargaining agreement or such other arrangements as they may agree upon. The commission shall pay the salary and traveling expenses of a commissioner or other designee assigned as a grievance arbitrator, but shall pay no other expenses of the proceedings.

NEW SECTION

WAC 316-65-500 GRIEVANCE ARBITRATION—EXCLUSIVE PROCEDURES. Upon the filing of a request pursuant to WAC 316-65-050 for arbitration of a dispute concerning interpretation or application of a collective bargaining agreement negotiated pursuant to chapter 47.64 RCW, the procedures of WAC 316-65-500, et seq. shall be the exclusive procedures for the determination of such dispute.

NEW SECTION

WAC 316-65-510 INTERVENTION AND CONSOLIDATION OF PROCEEDINGS. (1) Motion for intervention: Any person, not a party, who desires to appear and participate in any proceeding before the commission under this subchapter may make a written motion for intervention prior to the hearing or make an oral motion for intervention at the outset of the hearing. No such motion shall be filed or made after the hearing of evidence has commenced, except for good cause shown. The motion for intervention must state the name and address of the moving party; the name, address and telephone number of its principal representative, if any; the party's interest in the proceedings; and the party's position in regard to the labor dispute.

(2) Disposition of motion for intervention: Motions for intervention shall be considered first at all hearings, or may be set for prior hearing. An opportunity shall be afforded the original parties to be heard thereon. If it appears that the motion discloses an interest in the labor dispute or that participation by the moving party is in

the public interest, the commission shall grant the motion. Thereafter, the moving party shall be a party to the proceedings with the same right to produce and cross-examine witnesses as the other parties. If it appears during the course of proceedings that an intervenor has no substantial interest therein, the commission may dismiss such intervenor.

(3) On its own motion or at the motion of any party, the commission may consolidate proceedings on two or more notices where the facts or principles of law are related.

NEW SECTION

WAC 316-65-515 CONDUCT OF GRIEVANCE ARBITRATION PROCEEDINGS. Hearings may be conducted by the commission, by a member of the commission, or by any other person designated by the commission as examiner. At any time, an examiner may be substituted for the examiner previously presiding. An examiner shall have authority:

- (1) To administer oaths and affirmations;
- (2) To issue subpoenas in the name of the commission;
- (3) To rule on objections to evidence and offers of proof, receive relevant evidence and exclude irrelevant, immaterial or unduly repetitious evidence;
- (4) To question witnesses;
- (5) To regulate the time, place and course of the hearing;
- (6) To dispose of procedural requests or other similar matters;
- (7) To hold conferences for the settlement, simplification or adjustment of issues;
- (8) To make and issue an arbitration award on the matters in dispute, subject to the right of any party to petition for review of such award by the commission; and
- (9) To take any other action authorized by these rules. Any party who proceeds with arbitration after knowledge that any provision or requirement of these rules has not been complied with and who fails to state its objection thereto in writing, shall be deemed to have waived its right to object.

NEW SECTION

WAC 316-65-525 GRIEVANCE HEARING. The commission or its designated examiner shall establish a date, time and place for a hearing and shall provide reasonable notice thereof to the parties. Where it appears to the commission or examiner that an emergency exists warranting consideration of interim relief, a hearing may be scheduled for that purpose on less notice than that provided by WAC 316-02-170. For good cause shown, the commission or examiner may adjourn the hearing upon the request of a party or upon its own initiative. The parties may waive oral hearing by written agreement.

NEW SECTION

WAC 316-65-530 ORDER OF PROCEEDINGS AND EVIDENCE. The order of presentation at the

hearing shall be as agreed by the parties or as determined by the agency. All evidence shall be taken in the presence of all parties, unless a party is absent in default or has waived its right to be present. The commission or examiner may make, and take official notice of the results of, its own inspection of the conditions involved. Each documentary exhibit shall be filed with the commission and copies shall be provided to the other parties.

NEW SECTION

WAC 316-65-535 ARBITRATION IN THE ABSENCE OF A PARTY. The commission or examiner may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. Except for good cause shown, the failure of a party to appear shall constitute grounds for dismissal of its claim or granting of relief against it, as may be appropriate.

NEW SECTION

WAC 316-65-540 CLOSING OF HEARING. The hearing shall be deemed closed after the parties have completed presenting their testimony and/or exhibits and have filed briefs within agreed time limits. The commission or examiner may direct the filing of briefs when it deems such filing warranted by the nature of the proceedings or of particular issues therein.

NEW SECTION

WAC 316-65-545 EXAMINER DECISION. After the close of the hearing and the filing of all briefs, the examiner shall issue an arbitration award on the matters in dispute. The examiner shall file the original decision with the commission and shall cause a copy thereof to be served on each of the parties.

NEW SECTION

WAC 316-65-550 PETITION FOR REVIEW OF EXAMINER DECISION. The examiner's award shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days following the date of the award issued by the examiner. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on each of the other parties to the proceeding. Such petition for review shall contain, in separate numbered paragraphs, statements of the specific orders or rulings on which the party filing the petition seeks review by the commission. A petition for review shall have attached to it any appeal brief or written argument which the party filing the petition for review desires to have considered by the commission. Other parties to the proceeding shall have fourteen days following the date on which they are served with a copy of such petition for review and accompanying brief or written argument to file a responsive brief or written argument. The commission may, for good cause, grant any party an extension of the time for filing of its brief or written argument. In the event no timely petition for review is filed, and no action is taken

by the commission on its own motion within thirty days following the examiner's final order, the arbitration award of the examiner shall automatically become final and binding.

NEW SECTION

WAC 316-65-555 COMMISSION ACTION. On its own motion, or on the filing of a petition for review, the entire record in the proceeding shall be transferred to the commission, and thereafter all motions and arguments shall be directed to the commission. The commission may request the parties to appear before it to make oral arguments as to certain of the issues or all of the issues in the matter. The commission shall, on the basis of the record and any briefs or arguments submitted to it on review, issue the final and binding arbitration award on the matter.

NEW SECTION

WAC 316-65-560 GRIEVANCE ARBITRATION REMEDIES. If a violation of a collective bargaining agreement is found to have been committed, the commission or its examiner shall issue a remedial order. In calculating back pay orders, the following shall apply:

(1) Employee(s) reinstated to employment with back pay shall have deducted from any amount due an amount equal to any earnings such employee(s) may have received during the period of the violation in substitution for the terminated employment, calculated on a quarterly basis.

(2) Employee(s) reinstated to employment with back pay shall have deducted from any amount due an amount equal to any unemployment compensation benefits such employee(s) may have received during the period of the violation, and the department shall provide evidence to the commission that such amount has been repaid to the Washington state department of employment security as a credit to the benefit record of the employee.

(3) Money amounts due shall be subject to interest at the rate which would accrue on a civil judgment of the Washington state courts, from the date of the violation to the date of payment.

Chapter 316-75 WAC MARINE EMPLOYEES' UNION SECURITY DISPUTE RULES

NEW SECTION

WAC 316-75-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the marine employees' commission relating to union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 316-02 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the marine employees' commission.

(2) Chapter 316-25 WAC, which contains rules relating to proceedings on petitions for investigation of

questions concerning representation of ferry system employees.

(3) Chapter 316-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing ferry system employees' bargaining unit.

(4) Chapter 316-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices in the Washington state ferry system.

(5) Chapter 316-55 WAC, which contains rules relating to the resolution of impasses occurring in ferry system collective bargaining.

(6) Chapter 316-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

NEW SECTION

WAC 316-75-010 UNION SECURITY—OBLIGATION OF EXCLUSIVE BARGAINING REPRESENTATIVE. An exclusive bargaining representative which desires to enforce a union security provision contained in a collective bargaining agreement negotiated under the provisions of chapter 47.64 RCW shall provide each affected employee with a copy of the collective bargaining agreement containing the union security provision and shall specifically advise each employee of his or her obligation under that agreement, including informing the employee of the amount owed, the method used to compute that amount, when such payments are to be made, and the effects of a failure to pay.

NEW SECTION

WAC 316-75-030 UNION SECURITY—ASSERTION OF RIGHT OF NONASSOCIATION. An employee who, pursuant to RCW 47.64...., asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member shall notify the exclusive bargaining representative, in writing, of the claim of a right of nonassociation and shall, at the same time, provide the exclusive bargaining representative with the name(s) and address(es) of one or more nonreligious charitable organizations to which the employee is prepared to make alternative payments in lieu of the payments required by the union security provision.

NEW SECTION

WAC 316-75-050 UNION SECURITY—RESPONSE BY EXCLUSIVE BARGAINING REPRESENTATIVE. Within sixty days after it is served with written notice of a claimed right of nonassociation under WAC 316-75-030, the exclusive bargaining representative shall respond to the employee, in writing, both as to the eligibility of the employee to make alternative payments and as to the charitable organization(s) suggested by the employee. If a dispute exists concerning whether the employee is within a class of employees obligated under the terms of the union security provision, all such matters of contractual interpretation shall be resolved

under such procedures as may be available for unit clarification or resolution of disputes concerning the interpretation or application of the collective bargaining agreement.

NEW SECTION

WAC 316-75-070 UNION SECURITY—FILING OF DISPUTE WITH COMMISSION. In the event of a disagreement between an employee and his or her exclusive bargaining representative as to the eligibility of such employee to make alternative payments or as to the organization which is to receive such payments, either the employee or the exclusive bargaining representative may file with the commission a petition for a declaratory ruling on the union security obligations of the affected employee.

NEW SECTION

WAC 316-75-090 UNION SECURITY—PETITION FORM—NUMBER OF COPIES—FILING—SERVICE. Each petition for declaratory ruling on union security obligations shall be prepared in conformance with WAC 316-75-110. The original and three copies of the petition shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on the other party to the dispute and on the employer.

NEW SECTION

WAC 316-75-110 UNION SECURITY—CONTENTS OF PETITION. Each petition shall be headed "In the matter of the petition of (name of petitioning party) for a declaratory ruling concerning the union security obligations of (name of affected employee) under a collective bargaining agreement between (name of employer) and (name of exclusive bargaining representative)," and shall contain:

(1) The name and address of the department and the name, address and telephone number of the department's principal representative for the purposes of collective bargaining.

(2) The name, address and affiliation, if any, of the exclusive representative, and the name, address and telephone number of its principal representative, if any.

(3) The name, address and telephone number of the affected employee and the name, address and telephone number of his or her representative.

(4) Statements, in additional numbered paragraphs, of the matters in dispute.

(5) A copy, attached to the petition as an exhibit, of the union security provision under which the dispute arises.

(6) Any other relevant facts.

(7) The signature(s) and, if any, the title(s) of the representative(s) of the petitioner(s).

NEW SECTION

WAC 316-75-130 UNION SECURITY—ESCROW OF DISPUTED FUNDS BY DEPARTMENT. Upon being served with a copy of a petition filed under

WAC 316-75-070, the department shall preserve the status quo by withholding and retaining the disputed dues for periods during the pendency of the proceedings before the commission. Said funds shall draw interest at the rate provided by commercial banks for regular pass-book savings accounts. While the proceedings remain pending before the commission, the department shall not honor or otherwise act upon any request for discharge or other action against the affected employee based on the employee's union security obligations.

NEW SECTION

WAC 316-75-150 UNION SECURITY—INVESTIGATION. The commission shall refer the petition under dispute to one of its members or other designee, who shall conduct an investigation and such conferences as may be necessary to determine the relative positions of the parties and the facts and authorities relied upon by them, and shall issue a report in conformance with WAC 316-02-220.

NEW SECTION

WAC 316-75-170 UNION SECURITY—NOTICE OF HEARING. If the petition raises material questions of fact which cannot be resolved without a hearing and summary disposition under WAC 316-02-230 is not appropriate, there shall be issued and served on each of the parties to the dispute and on the department a notice of hearing before a hearing officer at a time and place fixed therein. Any such notice may be amended or withdrawn prior to the close of the hearing.

NEW SECTION

WAC 316-75-190 UNION SECURITY—HEARINGS—WHO SHALL CONDUCT. Hearings may be conducted by the commission or by any other person designated by the commission as a hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

NEW SECTION

WAC 316-75-210 AUTHORITY OF HEARING OFFICER. The hearing officer shall have the authority:

- (1) To administer oaths and affirmations;
- (2) To issue subpoenas in the name of the commission;
- (3) To rule upon objections to evidence and offers of proof, receive relevant evidence, and to exclude irrelevant, immaterial or unduly repetitious evidence;
- (4) To question witnesses;
- (5) To regulate the time, place and course of the hearing;
- (6) To dispose of procedural requests or other procedural matters;
- (7) To hold conferences for the settlement, simplification or adjustment of issues; and
- (8) To take any other action authorized by these rules.

NEW SECTION

WAC 316-75-230 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be limited to matters concerning the determination of the eligibility of the employee to make alternative payments and the designation of an organization to receive such alternative payments.

NEW SECTION

WAC 316-75-250 PROCEEDINGS BEFORE THE HEARING OFFICER. After the close of the hearing, the hearing officer may proceed forthwith upon the record, after submission of briefs or after further hearing, as may be appropriate, to determine the matter.

NEW SECTION

WAC 316-75-270 PROCEEDINGS BEFORE THE COMMISSION—PETITION FOR REVIEW. The final order of the hearing officer shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days following the date of the order issued by the hearing officer. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on the other party to the proceeding and on the employer. The petition for review shall identify the actions or rulings claimed to be in error. Any party to the proceeding may, within fourteen days after the initiation of review, file briefs or written arguments for consideration by the commission. The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served upon the other party. The commission or the designee of the commission may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues in the matter.

NEW SECTION

WAC 316-75-290 COMMISSION ACTION. The hearing officer shall transfer the entire record in the proceeding to the commission. The commission shall determine the matter.

NEW SECTION

WAC 316-75-310 IMPLEMENTATION. Where alternative payments in lieu of payments under a union security agreement have been agreed upon by the parties or ordered by the commission, the department shall release any funds (together with accumulated interest) held in escrow under WAC 316-75-130 to the designated charitable organization and the employee shall thereafter make payments and shall furnish written proof to the exclusive bargaining representative that such payments have been made to the designated charitable organization. Where the employee is found ineligible to

make alternative payments, the department shall release any funds (together with accumulated interest) held in escrow to the exclusive bargaining representative and shall enforce the union security provision according to its terms. The department and the exclusive bargaining representative shall allow the affected employee a grace period of not less than thirty days following the agreement or final order of the commission to correct any arrearages.

WSR 84-07-038

ADOPTED RULES

MARINE EMPLOYEES' COMMISSION

[Resolution No. 84-02—Filed March 20, 1984]

Be it resolved by the Marine Employees' Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to Marine Employees' Commission, repealing chapter 316-07 WAC.

This action is taken pursuant to Notice No. WSR 84-04-081 filed with the code reviser on February 1, 1984. 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 84.52.052 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 March 9, 1984.

By David P. Haworth
Chairman

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- (1) WAC 316-07-010 GENERAL APPLICATION.
- (2) WAC 316-07-020 SPECIAL RULES.
- (3) WAC 316-07-030 MODIFICATIONS AND EXCEPTIONS.
- (4) WAC 316-07-040 ADDRESS FOR COMMUNICATIONS—TIME OF OFFICIAL RECEIPT.
- (5) WAC 316-07-050 OFFICE HOURS.
- (6) WAC 316-07-060 COMPUTATION OF TIME.
- (7) WAC 316-07-070 DEFINITIONS.
- (8) WAC 316-07-080 INFORMAL PROCEDURE.
- (9) WAC 316-07-090 FORMAL PROCEDURE.
- (10) WAC 316-07-100 FILING AND SERVICE.
- (11) WAC 316-07-110 INTERVENTION.
- (12) WAC 316-07-120 APPEARANCES.

- (13) WAC 316-07-130 PREHEARING CONFERENCES.
- (14) WAC 316-07-140 VOLUNTARY SETTLEMENT.
- (15) WAC 316-07-150 SUBPOENAS.
- (16) WAC 316-07-160 DEPOSITIONS.
- (17) WAC 316-07-170 HEARINGS.
- (18) WAC 316-07-180 CONTINUANCES.
- (19) WAC 316-07-190 STIPULATION AS TO FACTS.
- (20) WAC 316-07-200 CONDUCT AT HEARINGS.
- (21) WAC 316-07-210 TESTIMONY UNDER OATH.
- (22) WAC 316-07-220 ORDER OF PROCEDURE.
- (23) WAC 316-07-230 RULES OF EVIDENCE—ADMISSIBILITY CRITERIA.
- (24) WAC 316-07-240 RULES OF EVIDENCE—OFFICIAL NOTICE.
- (25) WAC 316-07-250 RULES OF EVIDENCE—EXHIBITS AND DOCUMENTARY EVIDENCE.
- (26) WAC 316-07-260 BRIEFS.
- (27) WAC 316-07-270 RECONSIDERATION.
- (28) WAC 316-07-280 NO DISCUSSION OF PROCEEDING UNTIL DECISION.
- (29) WAC 316-07-290 ADMINISTRATIVE RULINGS.
- (30) WAC 316-07-300 COMPLIANCE WITH ORDERS—NOTIFICATION TO COMMISSION.

WSR 84-07-039

ADOPTED RULES

BELLEVUE COMMUNITY COLLEGE

[Order 86, Resolution No. 162—Filed March 20, 1984]

Be it resolved by the board of trustees of Bellevue Community College, Community College District VIII, acting at 3000 Landerholm Circle S.E., Bellevue, WA 98007, that it does adopt the annexed rules relating to addition to permanent rules of chapter 132H-200 WAC, general operating policies of Community College District VIII, WAC 132H-200-110, general policy on sexual harassment.

This action is taken pursuant to Notice No. WSR 84-04-049 filed with the code reviser on January 30, 1984. 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 under the general rule-making authority of Bellevue Community College, Community College District VIII, as authorized in RCW 28B.50.140.

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 March 13, 1984.

By Paul N. Thompson
Secretary, Board of Trustees

WAC 132H-200-110 GENERAL POLICY ON SEXUAL HARASSMENT. It shall be the policy of Bellevue Community College, consistent with effort to respect the dignity and integrity of both employees and students, to provide an environment free of sexual harassment.

Sexual harassment is a form of sex discrimination. It occurs in a variety of situations which share a common element: the inappropriate introduction of sexual activities or comments into the work or learning situation. Often, sexual harassment involves relationships of unequal power, and contains elements of coercion — as when compliance with requests for sexual favors becomes a criterion for granting work, study, or grading benefits. However, sexual harassment may also involve relationships among equals, as when repeated sexual advances or demeaning verbal behavior have a harmful effect on a person's ability to study or work in the academic setting.

For general policy purposes, the term sexual harassment may include, without limitation, such behavior as unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct and expressive behavior of a sexual nature where: (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education.

(2) Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting that individual.

(3) Such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating an intimidating, hostile or demeaning employment or educational environment.

The college recognizes its moral, ethical, and legal responsibilities regarding sexual harassment and will take appropriate action to rid the institution of such conduct.

WSR 84-07-040

ADOPTED RULES

BELLEVUE COMMUNITY COLLEGE

[Order 87, Resolution No. 163—Filed March 20, 1984]

Be it resolved by the board of trustees of Bellevue Community College, Community College District VIII, acting at 3000 Landerholm Circle S.E., Bellevue, WA 98007, that it does adopt the annexed rules relating to the repeal of WAC 132H-116-800, parking fees (chapter 132H-116 WAC, parking and traffic regulations of Community College District VIII).

This action is taken pursuant to Notice No. WSR 84-04-062 filed with the code reviser on January 31, 1984. 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 under the general rule-making authority of Bellevue Community College, Community College District VIII, as authorized in RCW 28B.50.140.

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 March 13, 1984.

By Paul N. Thompson
Secretary, Board of Trustees

REPEAL OF SECTION (Repealing Order 51, filed 4/8/77)

((WAC 132H-116-800 PARKING FEES:

- (1) ~~Automobile Permit:~~
 - (a) Annual — faculty/staff only \$28.00
 - (b) Quarterly — faculty/staff — full-time 7.00
 - (c) Quarterly — faculty/staff — part-time ... 4.00
 - (d) Quarterly — student — full-time 7.00
 - (e) Quarterly — student — part-time 4.00
- (2) ~~Motorcycle Permit:~~
 - (a) Annual — faculty/staff only 20.00
 - (b) Quarterly — faculty/staff/student — full-time 5.00
 - (c) Quarterly — faculty/staff/student — part-time 3.00
- (3) ~~Car Pool Permit:~~
 - (a) Quarterly — faculty/staff/student 10.00
- (4) ~~Miscellaneous Permits:~~
 - (a) Daily permit — faculty/staff/student/visitor 0.25
 - (b) Second car permit (and each additional car)
 - (i) Quarterly — faculty/staff/student 2.00
 - (c) Replacement permit (per vehicle)
 - (i) With signed certificate of destruction, theft, or sale of vehicle 0.50
 - (ii) Without certificate of destruction, theft or sale of vehicle 2.00
 - (d) Temporary permit No Charge
 - (5) Impound Fee At Cost))

WSR 84-07-041

PROPOSED RULES

CRIMINAL JUSTICE TRAINING COMMISSION

[Filed March 21, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Criminal Justice Training Commission intends to adopt, amend, or repeal rules concerning requirement of training for agriculture officers, WAC 139-50-030;

that the agency will at 10:00 a.m., Thursday, June 14, 1984, in the Criminal Justice Training Center, 2450 South 142nd, Seattle, WA, 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 43.101.080.

The specific statute these rules are intended to implement is RCW 43.23.160.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Wednesday, June 13, 1984.

Dated: March 20, 1984

By: James C. Scott
Executive Director

STATEMENT OF PURPOSE

Rule: New section WAC 139-50-030, Requirement of training for agriculture officers.

Agency: Washington State Criminal Justice Training Commission.

General Purpose of Rule: This rule prescribes a course of training which must be completed by any agriculture officer of this state as a precondition of such officer's general peace officer authority.

Description, Summary, and Statutory Authority for Rule: RCW 43.23.160 provides that an agriculture officer of this state shall have general peace officer authority for the purpose of enforcing laws relating to commission merchants, livestock identification, and livestock brand registration and inspection. That statute further provides that a prerequisite of such authority shall be the successful completion of a course of training prescribed by the Washington State Criminal Justice Training Commission. This rule prescribes such training.

Responsible Agency Personnel: The following personnel of the Washington State Criminal Justice Training Commission have responsibility for drafting and implementing this rule: James C. Scott, Executive Director, and Garry E. Wegner, Assistant Director, Washington State Criminal Justice Training Commission, Mailstop PW-11, Olympia, WA 98504, phone (206) 459-6342, scan 585-6342.

NEW SECTION

WAC 139-50-030 REQUIREMENT OF TRAINING FOR AGRICULTURE OFFICERS. (1) For purposes of this regulation, the term "agriculture officer" means any individual appointed by the State Director of Agriculture to enforce those laws relating to commission merchants, livestock identification, and livestock brand registration and inspection.

(2) As a precondition of any exercise of authority generally vested in a peace officer, an agriculture officer shall successfully complete training which shall include, but is not limited to:

- (a) criminal procedures, to include the legal system, search and seizure, laws of arrest, and constitutional law - 8 hours;
- (b) evidence law - 2 hours;
- (c) criminal investigation - 8 hours;
- (d) effective interviewing and interrogation - 4 hours;
- (e) communication skills - 6 hours;
- (f) criminal law - 4 hours;
- (g) officer safety and basic patrol procedures - 4 hours;
- (h) use of deadly force - 4 hours.

(3) As a precondition of any authorization to carry a firearm during the performance of duties, an authorized agriculture officer shall have successfully qualified in the firearms course which is incorporated by the Basic Law Enforcement Academy program of the Washington State Criminal Justice Training Commission, or is otherwise approved

by the Training Commission. Such qualification shall have been effected within the 12 months preceding the aforementioned firearms authorization.

(4) It shall be the responsibility of the State Director of Agriculture to effect and ensure personnel compliance herein and to provide necessary records and information upon the request of the Training Commission's Board on Law Enforcement Training Standards and Education, to which said Director shall be accountable for purposes of such compliance. Additionally, any equivalency process or official recognition of equivalent training or experience in determining an agriculture officer's compliance herein shall be within the prerogative and authorities of such Director.

WSR 84-07-042

ADOPTED RULES

ENERGY FACILITY SITE EVALUATION COUNCIL

[Order 84-1—Filed March 21, 1984]

Be it resolved by the Energy Facility Site Evaluation Council, acting at Olympia, Washington, that it does adopt the annexed rules relating to bimonthly meetings, WAC 463-06-040.

This action is taken pursuant to Notice No. WSR 84-03-046 filed with the code reviser on January 18, 1984. 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 80.50.040(1) which directs that the Energy Facility Site Evaluation Council has authority to implement the provisions of chapter 80.50 RCW.

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 March 12, 1984.

By Bill Fitch
Executive Secretary

AMENDATORY SECTION (Amending Order 103, filed 11/4/76)

WAC 463-06-040 ((BIMONTHLY)) SEMI-MONTHLY MEETINGS. Regular meetings of the council are held on the second and fourth Mondays of each month. Regular meetings may be canceled or rescheduled by approved council motion either by oral notice given at the preceding meeting or by the noticing procedure provided for special meetings pursuant to WAC 463-18-050.

WSR 84-07-043

ADOPTED RULES

DEPARTMENT OF LICENSING (Securities Division)

[Order SDO-39-84—Filed March 21, 1984]

I, John Gonzalez, director of the Department of Licensing, do promulgate and adopt at Olympia,

Washington, the annexed rules relating to the registration and exemption of securities, WAC 460-16A-109, Hi-Tech exemption from the cheap stock rule.

This action is taken pursuant to Notice No. WSR 84-03-027 filed with the code reviser on January 11, 1984. 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 21.20.280(8) and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 21.20.450 which directs that the Department of Licensing has authority to implement the provisions of the Securities Act of Washington.

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 March 20, 1984.

By John Gonzalez
Director

NEW SECTION

WAC 460-16A-109 HI-TECH EXEMPTION FROM CHEAP STOCK RULE. (1) "Hi-Tech companies" do not have to comply with the provisions of WAC 460-16A-106, WAC 460-16A-107, and WAC 460-46A-050.

(2) For the purposes of this section "Hi-Tech company" means a company that is primarily engaged in the development or production, for commercial marketing, of a new product or products that involve new technology. The principal product or products must be developed at least to the stage of having a working prototype or example and shall include computer software and products of genetic engineering.

WSR 84-07-044
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)

[Order 235—Filed March 21, 1984]

Be it resolved by the Washington State Game Commission, acting at Olympia, by conference call, that it does adopt the annexed rules relating to emergency closure of the Nisqually River system to the taking of steelhead trout by treaty Indians, WAC 232-32-164.

We, the Game Commission, 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 data gathered by the Department of Game from fish buyers, the Nisqually Tribe and other sources indicates that the treaty Indian share of harvestable steelhead for the Nisqually River has

been exceeded. Therefore, it is necessary to close the Nisqually River system to assure spawning escapement and to assure that non-Indian sport fishermen can take their share.

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

This rule is promulgated pursuant to RCW 77.12.150 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 March 21, 1984.

By Vern E. Ziegler
Chairman, Game Commission

NEW SECTION

WAC 232-32-164 EMERGENCY CLOSURE OF THE NISQUALLY RIVER SYSTEM TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS. Effective 4:00 p.m., March 23, 1984, it is unlawful for treaty Indians to take, fish for, or possess steelhead trout from or in the Nisqually River system.

WSR 84-07-045
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Filed March 21, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules relating to heat suppliers, chapter 480-95 WAC. The proposed adoption is shown below as Appendix A, Cause No. U-83-59. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed adoption on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17);

that the agency will at 9:00, Wednesday, April 25, 1984, in the Commission's Hearing Room, Sixth Floor, Highways-Licenses 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 80.01.040 and 80.62.040.

The specific statute these rules are intended to implement is chapter 80.62 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 20, 1984.

This notice is connected to and continues the matter in Notice Nos. WSR 83-24-064 and 84-04-012 filed with the code reviser's office on December 7, 1983, and January 23, 1984.

Dated: March 20, 1984

By: Barry M. Mar
Secretary

STATEMENT OF PURPOSE

In the matter of adopting chapter 480-95 WAC relating to heat suppliers.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 and 80.62.040 which direct that the commission has authority to implement the provisions of chapter 80.62 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to establish regulations regulating the application procedure for, and regulation of, "heat suppliers," as defined by statute. This is the second statement of purpose filed in this cause since the originally noticed text has been changed and the commission deemed it appropriate to allow for an additional comment period.

Barry M. Mar, Secretary, Seventh Floor, Highways-Licenses Building, Olympia, Washington, telephone number (206) 753-6420, and members of his staff were responsible for the drafting of the proposed rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule change proposed will affect no economic values.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

APPENDIX "A" CHAPTER 480-95 WAC HEAT SUPPLIERS

NEW SECTION

WAC 480-95-010 APPLICATION OF RULES. These rules shall apply to any heat supplier subject to the jurisdiction of the commission under authority of chapter 94, Laws of 1983.

NEW SECTION

WAC 480-95-020 DEFINITIONS. Unless the language or context indicates that a different meaning is intended, the following words, terms, and phrases shall, for the purposes of these rules, have the meanings hereinafter indicated.

(1) "Comparable heating services" available in a heat supplier's proposed service territory means any service furnishing heat directly, or furnishing any other commodity used as a primary heat source (including but not limited to oil, natural gas or electricity), to at least twenty percent of the customers in that territory in the class or classes which the applicant proposes to serve.

(2) "Customer" means any person, partnership, firm, association, corporation (including municipal corporations), cooperative organization, or governmental agency which receives service from a heat supplier or has completed an application to a heat supplier for service or a provider of heating services, as the context may require.

(3) "Designated service territory" means the geographic service area which a heat supplier serves or proposes to serve.

(4) "Formula" means any mathematical relationships by which a rate in to be calculated.

(5) The terms "heat," "heat supplier," and "commission" shall have the meaning ascribed to them in section 2, chapter 94, Laws of 1983.

(6) "Heat source" shall have the meaning ascribed to it in section 2, chapter 94, Laws of 1983, and shall also include but not be limited to cogeneration facilities and all agricultural, aquacultural, and forest products which can be converted to heat through combustion or any other energy conversion process.

(7) "Permit" means a nonexclusive operating permit authorized to be issued by the commission for the provision of heating services within a designated service territory.

(8) "Provider of heating services" means any person, firm, association, or corporation, including municipal corporations, affording heat directly, or affording any other commodity used as a primary heat source (including but not limited to oil, natural gas, or electricity), to customers within the applicant's proposed service territory for compensation.

(9) "Rate" means any price, charge, or classification made, demanded, observed, or received by heat suppliers or providers of heating services in the sale or purchase of heat from any heat source whatever, or any rule, regulation, or practice respecting any such price, charge, or classification, and any contract pertaining to the sale or purchase of heat.

(10) "Rates charged to customers" for comparable heating services shall be the rates per thermal unit customarily charged to each class of customer which the heat supplier proposes to serve during the year preceding such supplier's permit application.

NEW SECTION

WAC 480-95-030 PERMIT REQUIRED. No heat supplier shall engage in the distribution, delivery, furnishing, or selling of heat without having first obtained from the commission a permit to so do within a designated service territory.

NEW SECTION

WAC 480-95-040 OPERATION UNDER TRADE NAME. No permit will be issued to persons operating under a trade name, unless a certificate of said trade name is filed in accordance with the provisions of RCW 19.80.010 and a certified copy thereof is filed with the commission.

NEW SECTION

WAC 480-95-050 APPLICATION FOR PERMIT. (1) Applications for permits or extension thereof shall be typewritten, on forms to be furnished by the commission, providing all information therein requested. The application shall provide the following basic information:

(a) A description of the area proposed to be served by specific reference to known and ascertainable streets, avenues, roads, highways, or boundaries, or by metes and bounds, together with a map specifically delineating the area in which service is intended to be provided.

(b) A detailed description of the proposed heat source site, the proposed system and each major component thereof.

(c) A statement of the number and types of customers the applicant expects to be serving at the end of the first, fifth, and tenth years of operations; a description of their anticipated heating requirements and load characteristics expressed in terms of British Thermal Units (BTU's) during each such period; and a business plan by which the applicant proposes to meet such requirements.

(d) A statement signed by a professional engineer or other person(s) qualified to make such a statement that the proposed site and system design, the load calculations, and the anticipated availability and cost of primary and secondary fuels or other energy sources have been reviewed, and that:

(i) Where relevant to the type of services proposed, the site is reasonably adequate to support the production of heat for the operations described in subsection (c) above;

(ii) The system design, including storage and backup systems, is reasonably adequate to produce and deliver the heat required for such operations, and includes capacity sufficient to meet the base and peak heating loads projected for such operations;

(iii) The calculation of such projected loads is reasonable;

(iv) The heat supplier's proposed primary and secondary fuels or other energy sources are reasonably available at projected costs which render the project economically feasible;

(v) The system is designed in compliance with applicable codes and ordinances; and

(vi) All necessary permits, licenses, rights-of-way, and other approvals have been obtained or are reasonably obtainable.

Such signed statement shall be accompanied by written materials setting forth the specific information upon which each of the above representations is based, in sufficient detail to permit a reasonable determination that the proposed system is or is not adequate to provide the services for which the permit is sought, and a statement of qualifications for the person making the statement.

(e) The locations, descriptions and current status of all other projects undertaken by the applicant involving the development, production, generation, transmission, distribution, and/or delivery of heat and related services, together with a description of the applicant's role in such projects and the names, addresses, and telephone numbers of references familiar with the applicant's participation.

(f) Financial statements of the applicant for the current year and the preceding two years, together with credit and bank references or other information indicating that the applicant is financially responsible to provide the services for which the permit is sought.

(g) Evidence of comprehensive general liability insurance in form and substance satisfactory to the commission.

(h) A form of service contract or contracts to be offered to the applicant's customers which complies with the requirements of WAC 480-95-100.

(i) A schedule of rates charged to customers for comparable heating services available in the applicant's proposed service territory, identifying the sources of such information and setting forth any calculations employed to arrive at such rates.

(2) Applications not in substantial conformity with the requirements of this rule may be rejected by the commission; provided that upon an applicant's showing of good cause the commission may waive such requirements where to do so would not be inconsistent with the intent and purpose of this chapter.

(3) The commission may seek the assistance and recommendations of the Washington State Energy Office in reviewing and acting upon applications filed under these rules.

NEW SECTION

WAC 480-95-060 NOTICE OF APPLICATIONS. (1) For purposes of this section, "applications" shall include applications for a permit to provide heating services within a designated service territory and any extensions thereof, and applications for the sale, lease, or transfer of permits as provided hereafter.

(2) The commission shall provide notice of the filing to all known existing providers of heating service which at the time of filing of an application, are serving the territory described in the application. Upon receiving such an application, the commission shall also publish notice thereof in a newspaper of general circulation in the designated service territory. Such notice shall set forth the docket number, if any, of the application and shall identify the applicant and the designated service territory covered by the application. Notice will be given by mail in accordance with commission rules. Existing providers of heating service shall have twenty days from the date of publication of such notice to file with the commission protests to the application. Protests must set forth specifically the grounds upon which they are made and contain a concise statement of the interest of the protestant in the subject matter of the application. Protests are to be directed only to the qualification and financial responsibility of the applicant to serve, the adequacy of the design of the system, and/or the reasonableness of the proposed contract rates in relation to the rates charged to customers for comparable heating services by other providers thereof in the proposed service territory. The commission may reject any protest which appears to be frivolous, or fails to raise substantial issues as to the qualifications of the applicant or its system, or appears to be filed in bad faith or for delay. Amendment of the application to meet protests will be permitted within thirty days of the last day for the filing of such protests.

NEW SECTION

WAC 480-95-070 PROCEDURE BEFORE COMMISSION. The commission will review the application in detail, and may request the assistance and recommendations of the Washington State Energy Office in its review. The commission may also request amendment of the application or such additional information as may be required to assure compliance with statutory standards and with these regulations. If, after reviewing the application and such other information as may be furnished, the commission determines that the statutory standards and the requirements of these rules have been complied with, it shall issue a nonexclusive operating permit to provide heating services within the designated service territory. If it is not so satisfied, or upon protest raising substantive issues, the commission may set the application for hearing in accordance with the provisions of chapter 34.04 RCW. No application will be denied without an opportunity for hearing, and in the event of hearing, the burden shall be upon the applicant to show that it meets the requirements of section 5, chapter 94, Laws of 1983.

NEW SECTION

WAC 480-95-080 SALE, LEASE, OR TRANSFER OF PERMIT. Any permit may be sold, leased, or transferred upon application therefor on forms to be furnished by the commission giving all information requested therein and accompanied by the applicable fee. Transfer applications shall not be subject to protest, and may be granted by the commission upon a showing that the transferee is qualified and financially responsible.

NEW SECTION

WAC 480-95-090 DUPLICATE PERMITS. All applications for duplicate permits must be accompanied by an affidavit of the holder that the original has been lost or destroyed.

NEW SECTION

WAC 480-95-100 CONTRACTS. (1) Except as otherwise authorized by the commission, service to each class of customer shall be provided by uniform contract and at uniform rates. Heat suppliers may employ a master contract and/or may enter into individual contracts with each customer. Master contracts and individual contracts may not both be used within the same customer class. If a master form of contract is used, a true and correct copy shall be filed with the commission, and the heat supplier shall file quarterly a complete list of customers subscribing to service under the master contract. In the event that separate contracts are used, a true and correct copy of each contract shall be filed with the commission. Amendments to the contract or contracts shall also be filed with and be subject to approval by the commission.

(2) Contracts between a heat supplier and its customer shall be for a minimum of one year. They shall be terminable within the period for which they are written only in the manner provided in the contract, and under no circumstances upon less than thirty days' notice to the commission and each contracting party. Every such contract shall so provide.

(3) Every contract shall be mutually binding upon both heat supplier and customer, shall be entered into and performed in good faith, for an agreed rate or upon a formula by which the rate can reasonably be determined, and for an agreed term. Contracts shall conform to the following requirements:

(a) The time or term of performance by both parties must be stated and in no event shall the term or notice required for termination be shorter than that provided in these rules;

(b) Define the circumstances under which a customer deposit may be required, and delineate the circumstances under which discontinuance of service may be effectuated;

(c) Specify the procedure for renewal, modification, or termination of the contract;

(d) Specify the rates or the formula for determining rates to be charged during the contract term and specify the procedure, if any, for changing rates or the formula by which rates are to be determined; and

(e) Define the service responsibilities of the heat supplier and the customer for the purpose of maintaining adequate service. Each heat supplier shall commit to maintaining its plant and system in such condition as will enable it to furnish adequate service and shall endeavor to avoid interruptions of service, and, when such interruptions occur, to re-establish service with a minimum of delay. The contract will also

provide that should it be necessary for the heat supplier to make repairs to or change its facilities it may, without incurring any liability therefor, interrupt service for such periods as may be reasonably necessary, and in such manner as to minimize the inconvenience to customers. All customers affected by a scheduled interruption shall be given notification at least one day in advance. Each heat supplier shall keep a record of all interruptions of service including in such record the location, the date and time, the duration, and, as far as possible, the cause of each interruption. Copies of such records shall be submitted to the commission on request.

(4) Every contract shall contain the provision that it is made subject to the power and authority of the commission from time to time to determine the reasonableness of rates as provided in section 7, chapter 94, Laws of 1983.

(5) Every contract shall contain the provisions of WAC 480-95-120 setting forth the procedures for resolving complaints or disputes involving a heat supplier and its customers.

NEW SECTION

WAC 480-95-110 FEES.

- (1) Application for permit \$ 500.00
- (2) Application for extension 150.00
- (3) Application for sale, transfer, or lease 150.00
- (4) Application for duplicate permit 3.00

NEW SECTION

WAC 480-95-120 COMPLAINTS. Any complaint or dispute involving a heat supplier and a customer shall be treated in the following manner:

(1) Each complaint or dispute received by a heat supplier shall be investigated promptly as required by the particular case, and the result reported to the customer. When circumstances indicate the need for corrective action, such action shall be taken as soon as possible.

(2) Each heat supplier shall ensure that personnel engaged in initial contact with a dissatisfied or complaining customer explain that if dissatisfied with the decision or the explanation that is provided, the customer has the right to have that problem considered and acted upon by supervisory personnel of the heat supplier. The customer shall be provided with the name or department of such supervisory personnel and a telephone number by which they may be reached.

(3) Each heat supplier shall ensure that supervisory personnel contacted by a dissatisfied customer shall inform such customer of the availability of the commission for further review of any complaint or dispute. The telephone number and address of the commission shall also be provided.

(4) All parties to a dispute between a customer and a heat supplier shall have the right to bring before the commission an informal complaint pursuant to the provisions of WAC 480-08-040 and/or a formal complaint pursuant to provisions of WAC 480-08-050.

(5) When a complaint is referred to a heat supplier by the commission, the heat supplier shall, within two working days, report results of any investigation made regarding the complaint to the commission and shall keep the commission currently informed as to the progress made with respect to the solution of, and final disposition of the complaint. If warranted in a particular case, a heat supplier may request an extension of time.

(6) Each heat supplier shall keep a record of all complaints concerning its service or rates. The record shall show at least the name and address of the complainant, the nature and date of the complaint, action taken, and the final disposition of the complaint. Such record shall be maintained in a suitable place readily available for commission review. All written complaints shall be acknowledged. Correspondence and records of complaints shall be retained by the heat supplier for a minimum period of one year.

NEW SECTION

WAC 480-95-125 EXEMPTIONS. Nothing in this chapter requires public utilities regulated by the commission to obtain permits as heat suppliers under this chapter or to file contracts with the commission, unless such utilities develop, produce, transmit, distribute, deliver, furnish, or sell to or for the public in the state of Washington heat from waste heat, geothermal wells or springs, combustion of biomass materials, or collection of solar heat for a beneficial use other than electricity generation.

**WSR 84-07-046
RESCINDING PREVIOUS ORDER
UTILITIES AND TRANSPORTATION
COMMISSION**

[Order R-210, Cause No. U-83-59—Filed March 21, 1984]

In the matter of adopting chapter 480-95 WAC relating to heat suppliers.

On January 23, 1984, the Washington Utilities and Transportation Commission filed with the code reviser its Order No. R-300, entitled order adopting rules on an emergency basis, together with a text of chapter 480-95 WAC. The filing was assigned Code Reviser No. WSR 84-04-013. Under RCW 34.04.030, such emergency rules are effective upon filing, for a period not to exceed 90 days.

On March 14, 1984, the commission considered adoption of chapter 480-95 WAC on a permanent basis, pursuant to notice of intent to adopt rules filed with the code reviser on January 23, 1984. This notice was assigned Code Reviser No. WSR 84-04-012. The previous notice in this cause was filed December 7, 1983, under WSR 83-24-064.

Because substantial changes existed between the text of the rule considered on March 14, 1984, and the rule as previously noticed, the commission determined to give further notice of its proposed intent to adopt rules. Because of the legislative mandate in RCW 80.62.040 that the commission shall have adopted regulations governing heat suppliers, the commission will by separate order adopt the text considered on March 14, 1984, on an emergency basis. In order that two rules not be outstanding simultaneously, Order R-300 adopting rules on an emergency basis under Code Reviser No. WSR 84-04-013 will be rescinded.

ORDER

WHEREFORE, IT IS HEREBY ORDERED That Commission Order No. R-300 filed under Code Reviser No. WSR 84-04-013 is hereby rescinded.

DATED at Olympia, Washington, this 20th day of March, 1984.

Washington Utilities and Transportation Commission
Robert W. Bratton, Chairman
Mary D. Hall, Commissioner
A. J. "Bud" Pardini, Commissioner

**WSR 84-07-047
EMERGENCY RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Order R-211, Cause No. U-83-59—Filed March 21, 1984]

In the matter of adopting chapter 480-95 WAC relating to heat suppliers.

The Washington Utilities and Transportation Commission finds 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 the public interest. A statement of the facts constituting such emergency is rules are required to be in place within 180 days following the effective date of chapter 94, Laws of 1983. Emergency rules are necessary to meet that deadline while permanent rules are still under consideration.

This rule adoption is being promulgated pursuant to RCW 80.01.040 and 80.62.040.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

This adoption of chapter 480-95 WAC affects no economic values.

In reviewing the entire record herein, it has been determined that chapter 480-95 WAC should be adopted, to read as set forth in Appendix A shown below and made a part hereof by this reference. Chapter 480-95 WAC as adopted, will establish procedures and standards applicable to heat suppliers and contracts between heat suppliers and ultimate consumers; provide for complaint procedures and establish an application fee.

ORDER

WHEREFORE, IT IS ORDERED That chapter 480-95 WAC as set forth in Appendix A, be adopted, as emergency rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.030 and 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rules, after being first recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 20th day of March, 1984.

Washington Utilities and Transportation Commission
Robert W. Bratton, Chairman
Mary D. Hall, Commissioner
A. J. "Bud" Pardini, Commissioner

APPENDIX "A"

CHAPTER 480-95 WAC

HEAT SUPPLIERS

NEW SECTION

WAC 480-95-010 APPLICATION OF RULES. *These rules shall apply to any heat supplier subject to the jurisdiction of the commission under authority of chapter 94, Laws of 1983.*

NEW SECTION

WAC 480-95-020 DEFINITIONS. *Unless the language or context indicates that a different meaning is*

intended, the following words, terms, and phrases shall, for the purposes of these rules, have the meanings hereinafter indicated.

(1) "Comparable heating services" available in a heat supplier's proposed service territory means any service furnishing heat directly, or furnishing any other commodity used as a primary heat source (including but not limited to oil, natural gas or electricity), to at least twenty percent of the customers in that territory in the class or classes which the applicant proposes to serve.

(2) "Customer" means any person, partnership, firm, association, corporation (including municipal corporations), cooperative organization, or governmental agency which receives service from a heat supplier or has completed an application to a heat supplier for service or a provider of heating services, as the context may require.

(3) "Designated service territory" means the geographic service area which a heat supplier serves or proposes to serve.

(4) "Formula" means any mathematical relationships by which a rate is to be calculated.

(5) The terms "heat," "heat supplier," and "commission" shall have the meaning ascribed to them in section 2, chapter 94, Laws of 1983.

(6) "Heat source" shall have the meaning ascribed to it in section 2, chapter 94, Laws of 1983, and shall also include but not be limited to cogeneration facilities and all agricultural, aquacultural, and forest products which can be converted to heat through combustion or any other energy conversion process.

(7) "Permit" means a nonexclusive operating permit authorized to be issued by the commission for the provision of heating services within a designated service territory.

(8) "Provider of heating services" means any person, firm, association, or corporation, including municipal corporations, affording heat directly, or affording any other commodity used as a primary heat source (including but not limited to oil, natural gas, or electricity), to customers within the applicant's proposed service territory for compensation.

(9) "Rate" means any price, charge, or classification made, demanded, observed, or received by heat suppliers or providers of heating services in the sale or purchase of heat from any heat source whatever, or any rule, regulation, or practice respecting any such price, charge, or classification, and any contract pertaining to the sale or purchase of heat.

(10) "Rates charged to customers" for comparable heating services shall be the rates per thermal unit customarily charged to each class of customer which the heat supplier proposes to serve during the year preceding such supplier's permit application.

NEW SECTION

WAC 480-95-030 PERMIT REQUIRED. *No heat supplier shall engage in the distribution, delivery, furnishing, or selling of heat without having first obtained from the commission a permit to so do within a designated service territory.*

NEW SECTION

WAC 480-95-040 OPERATION UNDER TRADE NAME. No permit will be issued to persons operating under a trade name, unless a certificate of said trade name is filed in accordance with the provisions of RCW 19.80.010 and a certified copy thereof is filed with the commission.

NEW SECTION

WAC 480-95-050 APPLICATION FOR PERMIT. (1) Applications for permits or extension thereof shall be typewritten, on forms to be furnished by the commission, providing all information therein requested. The application shall provide the following basic information:

(a) A description of the area proposed to be served by specific reference to known and ascertainable streets, avenues, roads, highways, or boundaries, or by metes and bounds, together with a map specifically delineating the area in which service is intended to be provided.

(b) A detailed description of the proposed heat source site, the proposed system and each major component thereof.

(c) A statement of the number and types of customers the applicant expects to be serving at the end of the first, fifth, and tenth years of operations; a description of their anticipated heating requirements and load characteristics expressed in terms of British Thermal Units (BTU's) during each such period; and a business plan by which the applicant proposes to meet such requirements.

(d) A statement signed by a professional engineer or other person(s) qualified to make such a statement that the proposed site and system design, the load calculations, and the anticipated availability and cost of primary and secondary fuels or other energy sources have been reviewed, and that:

(i) Where relevant to the type of services proposed, the site is reasonably adequate to support the production of heat for the operations described in subsection (c) above;

(ii) The system design, including storage and backup systems, is reasonably adequate to produce and deliver the heat required for such operations, and includes capacity sufficient to meet the base and peak heating loads projected for such operations;

(iii) The calculation of such projected loads is reasonable;

(iv) The heat supplier's proposed primary and secondary fuels or other energy sources are reasonably available at projected costs which render the project economically feasible;

(v) The system is designed in compliance with applicable codes and ordinances; and

(vi) All necessary permits, licenses, rights-of-way, and other approvals have been obtained or are reasonably obtainable.

Such signed statement shall be accompanied by written materials setting forth the specific information upon which each of the above representations is based, in sufficient detail to permit a reasonable determination that

the proposed system is or is not adequate to provide the services for which the permit is sought, and a statement of qualifications for the person making the statement.

(e) The locations, descriptions and current status of all other projects undertaken by the applicant involving the development, production, generation, transmission, distribution, and/or delivery of heat and related services, together with a description of the applicant's role in such projects and the names, addresses, and telephone numbers of references familiar with the applicant's participation.

(f) Financial statements of the applicant for the current year and the preceding two years, together with credit and bank references or other information indicating that the applicant is financially responsible to provide the services for which the permit is sought.

(g) Evidence of comprehensive general liability insurance in form and substance satisfactory to the commission.

(h) A form of service contract or contracts to be offered to the applicant's customers which complies with the requirements of WAC 480-95-100.

(i) A schedule of rates charged to customers for comparable heating services available in the applicant's proposed service territory, identifying the sources of such information and setting forth any calculations employed to arrive at such rates.

(2) Applications not in substantial conformity with the requirements of this rule may be rejected by the commission; provided that upon an applicant's showing of good cause the commission may waive such requirements where to do so would not be inconsistent with the intent and purpose of this chapter.

(3) The commission may seek the assistance and recommendations of the Washington State Energy Office in reviewing and acting upon applications filed under these rules.

NEW SECTION

WAC 480-95-060 NOTICE OF APPLICATIONS. (1) For purposes of this section, "applications" shall include applications for a permit to provide heating services within a designated service territory and any extensions thereof, and applications for the sale, lease, or transfer of permits as provided hereafter.

(2) The commission shall provide notice of the filing to all known existing providers of heating service which at the time of filing of an application, are serving the territory described in the application. Upon receiving such an application, the commission shall also publish notice thereof in a newspaper of general circulation in the designated service territory. Such notice shall set forth the docket number, if any, of the application and shall identify the applicant and the designated service territory covered by the application. Notice will be given by mail in accordance with commission rules. Existing providers of heating service shall have twenty days from the date of publication of such notice to file with the commission protests to the application. Protests must set forth specifically the grounds upon which they are made and contain a concise statement of the interest of the

protestant in the subject matter of the application. Protests are to be directed only to the qualification and financial responsibility of the applicant to serve, the adequacy of the design of the system, and/or the reasonableness of the proposed contract rates in relation to the rates charged to customers for comparable heating services by other providers thereof in the proposed service territory. The commission may reject any protest which appears to be frivolous, or fails to raise substantial issues as to the qualifications of the applicant or its system, or appears to be filed in bad faith or for delay. Amendment of the application to meet protests will be permitted within thirty days of the last day for the filing of such protests.

NEW SECTION

WAC 480-95-070 PROCEDURE BEFORE COMMISSION. The commission will review the application in detail, and may request the assistance and recommendations of the Washington State Energy Office in its review. The commission may also request amendment of the application or such additional information as may be required to assure compliance with statutory standards and with these regulations. If, after reviewing the application and such other information as may be furnished, the commission determines that the statutory standards and the requirements of these rules have been complied with, it shall issue a nonexclusive operating permit to provide heating services within the designated service territory. If it is not so satisfied, or upon protest raising substantive issues, the commission may set the application for hearing in accordance with the provisions of chapter 34.04 RCW. No application will be denied without an opportunity for hearing, and in the event of hearing, the burden shall be upon the applicant to show that it meets the requirements of section 5, chapter 94, Laws of 1983.

NEW SECTION

WAC 480-95-080 SALE, LEASE, OR TRANSFER OF PERMIT. Any permit may be sold, leased, or transferred upon application therefor on forms to be furnished by the commission giving all information requested therein and accompanied by the applicable fee. Transfer applications shall not be subject to protest, and may be granted by the commission upon a showing that the transferee is qualified and financially responsible.

NEW SECTION

WAC 480-95-090 DUPLICATE PERMITS. All applications for duplicate permits must be accompanied by an affidavit of the holder that the original has been lost or destroyed.

NEW SECTION

WAC 480-95-100 CONTRACTS. (1) Except as otherwise authorized by the commission, service to each class of customer shall be provided by uniform contract and at uniform rates. Heat suppliers may employ a

master contract and/or may enter into individual contracts with each customer. Master contracts and individual contracts may not both be used within the same customer class. If a master form of contract is used, a true and correct copy shall be filed with the commission, and the heat supplier shall file quarterly a complete list of customers subscribing to service under the master contract. In the event that separate contracts are used, a true and correct copy of each contract shall be filed with the commission. Amendments to the contract or contracts shall also be filed with and be subject to approval by the commission.

(2) Contracts between a heat supplier and its customer shall be for a minimum of one year. They shall be terminable within the period for which they are written only in the manner provided in the contract, and under no circumstances upon less than thirty days' notice to the commission and each contracting party. Every such contract shall so provide.

(3) Every contract shall be mutually binding upon both heat supplier and customer, shall be entered into and performed in good faith, for an agreed rate or upon a formula by which the rate can reasonably be determined, and for an agreed term. Contracts shall conform to the following requirements:

(a) The time or term of performance by both parties must be stated and in no event shall the term or notice required for termination be shorter than that provided in these rules;

(b) Define the circumstances under which a customer deposit may be required, and delineate the circumstances under which discontinuance of service may be effectuated;

(c) Specify the procedure for renewal, modification, or termination of the contract;

(d) Specify the rates or the formula for determining rates to be charged during the contract term and specify the procedure, if any, for changing rates or the formula by which rates are to be determined; and

(e) Define the service responsibilities of the heat supplier and the customer for the purpose of maintaining adequate service. Each heat supplier shall commit to maintaining its plant and system in such condition as will enable it to furnish adequate service and shall endeavor to avoid interruptions of service, and, when such interruptions occur, to re-establish service with a minimum of delay. The contract will also provide that should it be necessary for the heat supplier to make repairs to or change its facilities it may, without incurring any liability therefor, interrupt service for such periods as may be reasonably necessary, and in such manner as to minimize the inconvenience to customers. All customers affected by a scheduled interruption shall be given notification at least one day in advance. Each heat supplier shall keep a record of all interruptions of service including in such record the location, the date and time, the duration, and, as far as possible, the cause of each interruption. Copies of such records shall be submitted to the commission on request.

(4) Every contract shall contain the provision that it is made subject to the power and authority of the commission from time to time to determine the reasonableness

of rates as provided in section 7, chapter 94, Laws of 1983.

(5) Every contract shall contain the provisions of WAC 480-95-120 setting forth the procedures for resolving complaints or disputes involving a heat supplier and its customers.

NEW SECTION

WAC 480-95-110 FEES.

- (1) Application for permit \$ 500.00
- (2) Application for extension 150.00
- (3) Application for sale, transfer, or lease ... 150.00
- (4) Application for duplicate permit 3.00

NEW SECTION

WAC 480-95-120 COMPLAINTS. Any complaint or dispute involving a heat supplier and a customer shall be treated in the following manner:

(1) Each complaint or dispute received by a heat supplier shall be investigated promptly as required by the particular case, and the result reported to the customer. When circumstances indicate the need for corrective action, such action shall be taken as soon as possible.

(2) Each heat supplier shall ensure that personnel engaged in initial contact with a dissatisfied or complaining customer explain that if dissatisfied with the decision or the explanation that is provided, the customer has the right to have that problem considered and acted upon by supervisory personnel of the heat supplier. The customer shall be provided with the name or department of such supervisory personnel and a telephone number by which they may be reached.

(3) Each heat supplier shall ensure that supervisory personnel contacted by a dissatisfied customer shall inform such customer of the availability of the commission for further review of any complaint or dispute. The telephone number and address of the commission shall also be provided.

(4) All parties to a dispute between a customer and a heat supplier shall have the right to bring before the commission an informal complaint pursuant to the provisions of WAC 480-08-040 and/or a formal complaint pursuant to provisions of WAC 480-08-050.

(5) When a complaint is referred to a heat supplier by the commission, the heat supplier shall, within two working days, report results of any investigation made regarding the complaint to the commission and shall keep the commission currently informed as to the progress made with respect to the solution of, and final disposition of the complaint. If warranted in a particular case, a heat supplier may request an extension of time.

(6) Each heat supplier shall keep a record of all complaints concerning its service or rates. The record shall show at least the name and address of the complainant, the nature and date of the complaint, action taken, and the final disposition of the complaint. Such record shall be maintained in a suitable place readily available for commission review. All written complaints shall be acknowledged. Correspondence and records of complaints shall be retained by the heat supplier for a minimum period of one year.

NEW SECTION

WAC 480-95-125 EXEMPTIONS. Nothing in this chapter requires public utilities regulated by the commission to obtain permits as heat suppliers under this chapter or to file contracts with the commission, unless such utilities develop, produce, transmit, distribute, deliver, furnish, or sell to or for the public in the state of Washington heat from waste heat, geothermal wells or springs, combustion of biomass materials, or collection of solar heat for a beneficial use other than electricity generation.

WSR 84-07-048

PROPOSED RULES

DEPARTMENT OF LICENSING

(Board of Dental Examiners)

[Filed March 21, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Dental Examiners intends to adopt, amend, or repeal rules concerning examination results, WAC 308-40-104.

A copy of the proposed amendment is show below, however, changes may be made at the hearing;

that the agency will at 9:00 a.m., Friday, May 4, 1984, in the Airport Hilton, 17620 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 18.32.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 4, 1984.

Dated: March 21, 1984

By: Chris R. Rose

Assistant Administrator

Professional Licensing Division

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Dental Examiners.

Purpose of Proposed Amendment: To restate examination results required to pass the examination.

Statutory Authority: RCW 18.32.040.

Summary of Rule: WAC 308-40-102 Examination results.

Reason for Proposed Amendment: To provide for successful passing of the examination only upon the passing of each section or phase.

Responsible Personnel: The Washington State Board of Dental Examiners and its executive secretary have the responsibility for drafting, implementing and enforcing this rule. The acting executive secretary is Chris R. Rose, Assistant Administrator, P.O. Box 9649, Olympia, WA 98504, telephone (206) 234-1150 scan, (206) 753-1150 comm.

Proponents of the Proposed Amendment: The amendment was proposed by the Washington State Board of Dental Examiners.

Agency Comments: The amendment is proposed pursuant to RCW 18.32.040.

Federal Law or State Court Requirements: The proposed amendment is not necessitated as a result of federal law or state court action.

AMENDATORY SECTION (Amending Order PL 391, filed 1/26/82)

WAC 308-40-104 EXAMINATION RESULTS. (1) In order to pass the examination the applicant must ~~((have a score of 75 in each of the restorative procedures. An overall average of 75 for the entire examination must be achieved:))~~ pass each section and/or phase of the examination.

(2) Applicants will be required to retake the entire examination even though a passing score may have been received on any portion of the examination.

(3) Applicants who fail the examination may apply for reexamination by completing application and submitting the appropriate fee to the division of professional licensing.

(4) Applicants who fail to appear for examination forfeit the examination fee.

WSR 84-07-049
PROPOSED RULES
DEPARTMENT OF LICENSING
(Dental Hygiene Examining Committee)
[Filed March 21, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Dental Hygiene Examining Committee intends to adopt, amend, or repeal rules concerning the examination, amending WAC 308-25-025;

that the agency will at 10:00 a.m., Tuesday, April 24, 1984, in the Everett Pacific Hotel, Bainbridge Room, 3105 Pine Street, Everett, WA 98201, 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 18.29.031.

The specific statute these rules are intended to implement is RCW 18.29.031.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 20, 1984.

Dated: March 21, 1984

By: Chris Robert Rose
Assistant Administrator

STATEMENT OF PURPOSE

Name of Agency: Washington State Dental Hygiene Examining Committee.

Purpose: The purpose is to revise the practical examination process.

Statutory Authority: RCW 18.29.031.

Summary of the Rule: WAC 308-25-025 The examination, explains examination content and procedure, including the clinical demonstrations covered in the practical examination section.

Reasons Proposed: To revise the patient selection criteria and improve the examination.

Responsible Departmental Personnel: In addition to the members of the Dental Hygiene Examining Committee, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Chris Robert Rose, Assistant Administrator, and Linda McCue, Administrative Assistant, Third Floor, Highways-Licenses Building, Olympia, WA 98504, 234-1150 scan, 753-1150 comm.

Proponents: This amendment was proposed by the Washington State Dental Hygiene Examining Committee.

Small Business Economic Impact Statement: A small business economic impact statement is not required since these rules do not impact small businesses as that term is defined by RCW 43.31.920.

AMENDATORY SECTION (Amending Order PL 459, filed 2/1/84)

WAC 308-25-025 THE EXAMINATION. The dental hygiene examination will consist of a written section and a practical section.

(1) Written examination. The written theory examination will cover ten (10) subject areas including inorganic chemistry, physiology, anatomy, bacteriology, anesthesia, radiography, materia medica, dental histology, principles of nursing and hygiene, and restorative dentistry: PROVIDED, That a certificate granted by the National Board of Dental Hygiene Examination may be accepted in lieu of the written examination: PROVIDED, FURTHER, that such applicant will also be required to successfully complete a written examination covering anesthesia, restorative dentistry, and other subjects.

(2) Practical examination: The practical examination will include:

(a) A clinical demonstration of a prophylaxis case to consist of the removal of deposits from and the polishing of the surfaces of the teeth.

(i) Patients must be obtained by applicant and be at least eighteen (18) years of age with a minimum of twenty-four (24) teeth. A patient shall not be a dentist, dental student, dental hygienist, or dental hygiene student. Patients must have sufficient supragingival and subgingival calculus and stain to provide a suitable test. If the case is not appropriate for testing the applicant's competency, patient will be rejected. Requirements for suitable test case:

(A) Subgingival calculus: Patients must have a minimum of ~~((the twelve (12)))~~ fourteen (14) teeth with subgingival calculus ~~((a minimum of four (4) teeth must be located in two (2) posterior sextants))~~. A minimum of three of the four posterior sextants (from first bicuspid to third molar) must have detectable subgingival calculus. Subgingival calculus must be present on at least eleven (11) posterior teeth. A minimum of three (3) teeth with subgingival calculus must be located in the anterior sextants.

(B) Supragingival calculus: Patient must have visible supragingival calculus ~~((visible in at least one sextant))~~.

(C) Stain: Patient must have ~~((supragingival calculus))~~ visible stain ~~((in at least one sextant))~~.

(D) Patients will not be acceptable if patient has advanced stages of periodontal involvement in more than one sextant. (American Academy of Periodontology Patient Classification III. ((If the case is not appropriate for testing the applicant's competency, patient will be rejected:))

(ii) Case history to be completed on forms prepared by the committee. The patient will be rejected if contraindications exist in the medical history for receiving immediate dental hygiene treatment.

(iii) The applicant must furnish a specified series of diagnostic radiographs taken by the applicant which will be evaluated by and remain with the committee. Unless otherwise authorized by the committee, the same patient will be used for patient case history, prophylaxis, anesthetic administration and radiographs.

(b) The applicant will be required to demonstrate the administration of a local anesthetic. The applicant will furnish anesthesia armamentarium including ~~((an))~~ a manual aspirating syringe and using anesthetic solution with no vaso-constrictor unless otherwise authorized by the committee.

(c) Restorative: applicant will need to demonstrate the placement, carving and polishing of amalgam restorations.

(i) Applicants will bring a typodont with a condensed, carved and unpolished M.O.D. amalgam restoration on a molar which applicant will be required to polish and leave with the board.

(ii) The applicant must demonstrate proper insertion, condensation and carving of the restorative material in the typodont tooth, establishing proper anatomy, contour and proximal contact. The applicant must supply all instruments and materials required to perform the restorative procedures.

Reviser's note: RCW 34.04.058 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 84-07-050

ADOPTED RULES

DEPARTMENT OF LICENSING

(Board of Dental Examiners)

[Order PL 462—Filed March 21, 1984]

Be it resolved by the Washington State Board of Dental Examiners, acting at Seattle, Washington, that it does adopt the annexed rules relating to examination content, amending WAC 308-40-102.

This action is taken pursuant to Notice No. WSR 84-04-087 filed with the code reviser on February 1, 1984. 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 18.32.040 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 March 16, 1984.

By Frank Yonek, DMD
Chairman

AMENDATORY SECTION (Amending Order PL 431, filed 3/29/83)

WAC 308-40-102 EXAMINATION CONTENT.

(1) The examination will consist of:

(a) Theory: National Board only accepted.

(b) Practical:

(i) Restorative examination: The restorative examination shall consist of an amalgam restoration, a cast gold restoration and a gold foil restoration. Proper radiographs are required for each cavity selection.

Amalgam Class II ((=))

Cast gold restoration - Three or more surfaces.

Gold foil - Class II, III or V

~~((ii) Prosthetic: Candidates will be evaluated in the area of prosthetics:))~~

~~(((((iii))) (ii) The board may, at its discretion, give an examination in ((oral diagnosis and treatment planning, or)) any other phase of dentistry. Candidate will receive information concerning such examination.~~

(2) Each applicant must furnish his or her own patient for all phases of the practical examination. Patients must be at least eighteen years of age, and shall not be a dentist, dental student, dental hygienist or dental hygiene student. The state board of dental examiners and the school of dentistry assume no responsibility regarding work done on patients. Candidates will be required to furnish documentary evidence of malpractice and liability insurance for the examination.

(3) An assistant will be permitted to assist the applicant at the chair. Dentists or undergraduate dental students, hygienists, undergraduate hygienists are not acceptable as assistants. Assistants must complete a form of eligibility.

WSR 84-07-051

ADOPTED RULES

DEPARTMENT OF LICENSING

(Board of Examiners for Nursing Home Administrators)

[Order 461—Filed March 21, 1984]

Be it resolved by the Washington State Board of Examiners for Nursing Home Administrators, acting at Seattle, Washington, that it does adopt the annexed rules relating to:

- Amd WAC 308-54-140 Approval of courses of study.
- Amd WAC 308-54-150 Continuing education requirements to meet the conditions of reregistration for license.

This action is taken pursuant to Notice No. WSR 84-04-086 filed with the code reviser on February 1, 1984. 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 18.52.100 (14) and 18.52.110 (2) 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 March 13, 1984.

By Ronald K. Klipping
Chairman

AMENDATORY SECTION (Amending Order PL 328 [PL 407], filed 12/20/79 [10/6/82])

WAC 308-54-140 APPROVAL OF COURSES OF STUDY. (1) Programs of study sponsored by any accredited universities or colleges which carry recognized academic credit may be deemed acceptable and approved for continuing education credit, provided, however, that the course meets the conditions set forth in WAC 308-54-130 (2) (4) and provided that such course of study shall register for approval at least 45 days prior to the course offering to allow sufficient time for the course of study to be approved prior to offering.

(2) Programs of study sponsored by the following may be deemed acceptable and approved for continuing education credits, provided, however, that the course meets the conditions set forth in WAC 308-54-130 (2) (4) and provided that such course of study shall register for approval at least 45 days prior to the course offering to allow sufficient time for the course of study to be approved prior to offering:

American College of Nursing Home Administrators
 American College of Hospital Administrators
 Washington State Health Facilities Association
 Washington Association of Homes for the Aging
 United Nursing Homes, Inc.

Any state long-term care association which is recognized by the licensing authority of its state as a qualified professional association or educational organization.

(3) Any course of study sponsored by an educational institution, association, professional society, or organization other than an accredited college or university may be approved by the board for continuing education credit, provided, however:

(a) Such course of study meets the conditions set forth in WAC 308-54-130 (2)-(4); and

(b) Such course of study shall register for approval at least 45 days prior to the course offering to allow sufficient time for the course of study to be approved prior to offering.

~~((4) In certain circumstances the board reserves the right to approve courses, without registration, taken outside the state of Washington, if, in the opinion of the board, the course clearly meets the conditions of WAC 308-54-130 (2)-(4). Approval will be based upon proof of time, place, curriculum, faculty, and other factors the board may require. Also, in special circumstances, the board may consider requests for continuing education credit for courses of study upon petition to the board:))~~

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.04.058 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 PL 338, filed 3/26/80)

WAC 308-54-150 CONTINUING EDUCATION REQUIREMENTS TO MEET THE CONDITIONS OF RE-REGISTRATION FOR LICENSE. (1) A condition of reregistration for license shall be the requirement that the applicant has attended board-approved courses in continuing education.

(2) The licensee shall present proof that he or she has obtained fifty-four classroom hours in approved continuing education courses during each three year period of his or her licensed tenure. The first three year period shall begin on the date of first renewal of the license, and shall conclude the day before the third anniversary of such renewal. Successive three year periods shall be computed in a similar fashion.

(3) There shall be no carry over of continuing education classroom hours from any three year period to the next three year period.

(4) Applicants for renewal practicing only out of the state of Washington may petition the board for full recognition of the continuing education requirement through fulfillment of their state of practice's licensing and continuing education requirements with the condition that their state has equal hours of continuing education requirements.

WSR 84-07-052 PROPOSED RULES LIQUOR CONTROL BOARD

[Filed March 21, 1984]

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 minimum qualifications for issuance of Class E, F, and Classes EF licenses, WAC 314-16-200; that the agency will at 9:30 a.m., Wednesday, April 25, 1984, in the Office of the Washington State Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, 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 66.24.010, 66.24.360 and 66.24.370.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 25, 1984.

Dated: March 21, 1984

By: Robert D. Hannah
 Chairman

STATEMENT OF PURPOSE

Title: WAC 314-16-200 Minimum qualifications for issuance of Class E, F, and Classes EF licenses.

Description of Purpose: The purpose of this amendment is to clarify and change the minimum qualifications for Class E, F, and Classes EF licenses. The board feels the current requirements regarding inventory of food, groceries, and grocery related store items are outdated by reason of inflation and that these minimum requirements have contributed to the proliferation of such licenses.

Statutory Rule-Making Authority: RCW 66.08.030 and 66.98.070.

Statutes Implemented by the Rule: RCW 66.24.010, 66.24.360 and 66.24.370.

Summary of Rule: Currently the inventory requirements are: Grocery stores - \$3000; and Grocery stores selling gasoline - \$7500. The proposed inventory requirements are: Grocery stores - \$5000; and Grocery stores selling gasoline - \$12,500. It is proposed that for those grocery stores which sell gasoline certain goods

will not be considered grocery, or grocery related items for the requirements, such as oil, gas. It is proposed that the inventory of grocery and grocery related items shall be stored and maintained on the licensed premises. It is proposed that only those businesses which start up after the effective date of the rule will be affected by it. It is further proposed that the board may, if there are unusual, extenuating or mitigating circumstances, grant an applicant or a licensee a variance from the requirements of the rule.

Reason Supporting Proposed Action: The board approved WAC 314-16-200 originally to establish guidelines for Classes E, F, and Classes EF licenses. The monetary figures were adopted to assure that the premises were operated in a substantial manner. Since the dollar amounts were first passed inflation and the cost of living have risen. The amounts and wording are an effort to continue assuring that these licenses will be issued to bona fide operations and slow down the proliferation of unneeded beer and wine off-premises licenses. To avoid circumventing the intent of the rule the board deems it necessary to exclude certain products (i.e. tobacco and soft drinks) from being considered a part of the inventory. This is to assure that licenses are not issued to places whose principal grocery business would consist of the sale of beer and/or wine, cigarettes and soda pop. In order to avoid the circumstance where the inventory might be kept in a building apart from the licensed premises for rule compliance purposes, and the main business in the licensed area would be the sale of beer and/or wine, cigarettes and soda pop, the board is requiring that the grocery inventory be stored and maintained in the licensed premises.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Ray Hensel, Supervisor, License Division, Capital Plaza Building, Olympia, WA 98504, Phone: (206) 753-6259.

Person or Organization Proposing Rule: This rule was proposed by the Washington State Liquor Control Board.

Agency Comments: No comments.

Necessity of Rule: This rule was not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: Cost impact for existing businesses is estimated to be zero.

Discussion: Only those businesses which start up after the effective date of the rule will be affected by it. Additionally, the board has provided for the granting of variances to applicants or licensees in unusual or hardship type situations which the board would find meriting the granting of such a variance.

AMENDATORY SECTION (Amending Order 102, Resolution No. 111, filed 4/28/82)

WAC 314-16-200 MINIMUM QUALIFICATIONS FOR ISSUANCE OF CLASS E, F, AND CLASSES EF LICENSES. (1) The following are minimum qualifications necessary prior to consideration being given by the board to the issuance of Class E, F, or Classes EF licenses to store operations. The decision as to whether a license will or will not be issued in a particular case is, pursuant to RCW 66-.24.010, a matter of board discretion. While the following minimum qualifications must be present before the board will give consideration to the issuance of a Class E, F, or Classes EF license to an applicant,

the mere fact that an applicant meets these minimum qualifications is not to be construed as creating a vested right in the applicant to have a license issued.

(2) Before the board will issue a Class E, F, or Classes EF license to an applicant grocery store, the proposed licensed premises must be stocked with an inventory of food, grocery and related grocery store items in excess of ~~(((\$3,000))~~ \$5,000 wholesale value. The minimum wholesale inventory required by this subsection shall not include any gasoline, oil, auto parts, tobacco products, or soft drinks.

(3) ~~Grocery stores which also sell gasoline ((or apply for board approval to install gasoline pumps in connection with their businesses))~~ must be stocked with an inventory of food, grocery, and related grocery store items ~~((exclusive of gasoline, oil, auto parts, and related gas station or garage items;))~~ in excess of ~~(((\$7,500))~~ \$12,500 wholesale value before the board will issue to them a Class E, F, or Classes EF license ~~((or grant approval to install gas pumps at their licensed premises. PROVIDED, That)).~~ The minimum wholesale inventory required by this subsection shall not include any gasoline, oil, auto parts, tobacco products, or soft drinks. The minimum grocery inventory shall be stocked and maintained within the confines of the licensed premises. Marinas which sell gasoline for use in boats only shall be subject to the requirements of subsection (2) ((above)) of this section.

(4) The minimum amounts referred to in ~~((paragraphs))~~ subsections (2) and (3) ((above)) of this section shall be maintained at the premises at all times they are licensed with the exception of beginning and closing inventory for seasonal operations or when the inventory is being sold out immediately prior to discontinuing or selling the business.

(5) Stores other than grocery stores must submit to the board a written commitment to establish and maintain a minimum wholesale inventory of wine in the amount of ~~(((\$3,000))~~ \$5,000 prior to the issuance of a license. This minimum inventory shall be maintained at the licensed premises at all times they are licensed.

(6) ~~((PROVIDED, That))~~ Subsections (2), (3), (4), and (5) of this regulation shall not apply to stores licensed prior to the effective date of this regulation unless on that date they do meet the minimum inventory figures required by those subsections. ~~((PROVIDED FURTHER, That))~~ Upon a change of the ownership of these licensed stores, it will be necessary for the requirements of this regulation to be met prior to the issuance of a new license.

(7) If a Class E, Class F, or Classes EF licensee or applicant for such licenses does not meet or maintain the requirements provided for in subsections (2) through (6) of this section, the licensee or applicant may petition the board, setting forth any unusual, extenuating, or mitigating circumstances that may justify a variance, and the board may, under such terms and conditions it determines are in the best interest of the public, grant the variance.

WSR 84-07-053

PROPOSED RULES

LOTTERY COMMISSION

[Filed March 21, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Lottery Commission intends to adopt, amend, or repeal rules concerning adding new sections WAC 315-11-120, 315-11-121 and 315-11-122;

that the agency will at 10:00 a.m., Friday, May 4, 1984, in the Holiday Inn, Maple Leaf Ballroom A, Nine North 9th Street, Yakima, WA 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 67.70.040.

The specific statute these rules are intended to implement is RCW 67.70.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 4, 1984.

Dated: March 21, 1984
By: Kevin Ryan
Assistant Attorney General
for Lawrence G. Waldt
Chairman

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): WAC 315-11-120 Definitions for Instant Game Number 10 ("Bonanza"); WAC 315-11-121 Criteria for Instant Game Number 10; and WAC 315-11-122 Ticket and stub validation requirements for Instant Game Number 10.

Statutory Authority: RCW 67.70.040.

Specific Statutes that Rule is Intended to Implement: RCW 67.70.040.

Summary of the Rule(s): WAC 315-11-120, this rule provides definitions of the terms used in Instant Game Number 10 rules; WAC 315-11-121, this rule sets forth criteria for Instant Game Number 10, including the price of a ticket, determination of winning tickets, how to claim a prize; grand prize awards, and the director's authority to vary the game's length and/or the number of tickets sold; and WAC 315-11-122, this rule states the ticket and stub validation requirements for Instant Game Number 10, what may occur if a ticket or stub fails any validation requirement, and the lottery's responsibility if a defective ticket is sold.

Reasons Supporting the Proposed Rule(s): WAC 315-11-120, certain terms need to be defined in order to provide an understanding of the provisions contained in WAC 315-11-121 and 315-11-122; WAC 315-11-121, licensed agents and players of Instant Game Number 10 need to know how the game will function. Specifying the criteria which apply to Instant Game Number 10 will provide this information; and WAC 315-11-122, tickets or stubs for Instant Game Number 10 which are found to be counterfeit or tampered with will be declared void by the lottery and no prize(s) will be paid. Rigid validation requirements are set forth to discourage persons from tampering with tickets and stubs and to provide the lottery a mechanism to deny payment of prize if an invalid ticket or stub is submitted.

The Agency Personnel Responsible for Drafting: C. J. Coffman, Contract Specialist, Office of the Director, Washington State Lottery, P.O. Box 9702, Olympia, WA 98504, (206) 754-1088; Implementation and Enforcement: Washington State Lottery Commission, P.O. Box 9770, Olympia, WA 98504, (206) 753-1412, Robert Boyd, Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3330; N. A. Stussy, Assistant Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3329, William Robinson, Assistant Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-1414, and Jamie Bailey, Assistant Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3384.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Washington State Lottery Commission.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with 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 Requirement: The office of the director, Washington State Lottery, has reviewed the requirements to file a small business economic impact statement and has determined that such a statement is not required for the rules proposed by the Washington State Lottery Commission for the following reason: These rules will only affect those businesses, large and small, which voluntarily apply to be licensed agents for the sale of lottery tickets or contractors who provide other services to the office of the director, Washington State Lottery or who voluntarily interact with the office of the director, Washington State Lottery. No business or industry will be required to comply with these rules unless they wish to provide services to or interact with the office of the director, Washington State Lottery.

NEW SECTION

WAC 315-11-120 DEFINITIONS FOR INSTANT GAME NUMBER 10 ("BONANZA"). (1) Play Numbers: The following are the "play numbers": "TICKET", "\$2.00", "\$5.00", "\$25.00", "\$500", "\$5,000" and an illustration of a HORSESHOE. Each such play number is printed in gray-black ink in the Archer font in positive and one of these play numbers appears under each of the six rub-off spots on the front main portion (left side) of the ticket.

(2) Validation Number: The unique nine-digit number on the front bottom center on the main portion (left side) of the ticket. There is a ticket stub (right portion of the ticket) for Instant Game Number 10 and the unique validation number will also appear at the bottom of the front of the ticket stub.

(3) Pack-Ticket Number: The ten-digit number of the form 1000001-000 printed on the back of the ticket in .11" high type in red. The first seven digits of the Pack-Ticket Number for Instant Game Number 10 constitute the "pack number" which starts at 1000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Captions: The small printed material appearing below each play number which verifies and corresponds with that play number. The caption is a spelling out, in full or abbreviated form, of the play number, except in the case of the play number which is an illustration of a HORSESHOE. One and only one of these captions appears under each play number and is printed in gray-black ink in positive in 5 x 9 font. For Instant Game Number 10, the captions which correspond with and verify each play number are:

PLAY NUMBER	CAPTION
TICKET	TICKET
\$2.00	TWO
\$5.00	FIVE
\$25.00	TWTY FIV
\$500	FIVE HUND
\$5,000	FIVE THOU
	DOUBLE

(5) Agency Validation Codes: Codes consisting of small letters found under the removable covering on the front of the ticket which

the licensed agent uses to verify and validate instant winners below \$25. For Instant Game Number 10, the agent validation code is a three-letter code, with each letter appearing in a varying three of nine locations beneath the removable covering and among the play numbers on the main portion of the ticket. The agent validation codes used by the licensed agent to verify lower tier prizes are:

TIC	=	Free Ticket
TKS	=	2 Free Tickets
TWO	=	\$2.00
FOR	=	\$4.00
FIV	=	\$5.00
TEN	=	\$10.00

(5) Instant prize winning tickets shall be redeemed in the manner set out on the back of the ticket.

(6) Grand Prize Drawing for Instant Game Number 10: The grand prize drawing process shall be conducted as follows:

(a) Participants in the Grand Prize Drawing process shall be those validated prize winners of either exactly \$25 or \$50 whose prize claim is received by the lottery within 14 days after the announced end of Instant Game Number 10 in the manner prescribed on the back of the instant ticket. The lottery is not responsible for any entry until it is received.

(b) Each of the \$25 or \$50 winning tickets must be a valid Instant Game 10 "Bonanza" ticket.

(c) The legible name of an eligible player must be present on the back of each eligible ticket or on the claim form.

(d) There will be one grand prize drawing for Instant Game Number 10. The preliminary grand prize drawing process and the grand prize drawing will be conducted at times and places and pursuant to methods to be announced by the director. The prizes involved in the grand prize drawing will be: first prize, \$1,000 a week for life, with the prize payment starting at age 18 or older, with a minimum payment of \$1,000,000 being guaranteed; second prize, \$100,000; third and fourth prizes, \$75,000 each; fifth and sixth prizes, \$50,000 each; seventh and eighth prizes, \$25,000 each; and ninth and tenth prizes, \$10,000 each. In the event that an entry is not included in the preliminary grand prize drawing process and the director determines that the entry was entitled to participation in the process, the director reserves the right to place that entry into a subsequent preliminary grand prize drawing process.

(7) Notwithstanding any other provisions of these rules, the director may: (a) vary the length of Instant Game No. 10, and/or (b) vary the number of tickets sold in Instant Game No. 10 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-122 TICKET AND STUB VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 10. (1) In addition to meeting all of the other requirements in these rules and regulations, the following validation requirements will apply to instant game tickets in Instant Game Number 10. To be a valid Instant Game Number 10 ticket or a valid stub, all of the following requirements must be met.

(a) Exactly one play number must appear under each of the six rub off spots on the main portion of the ticket.

(b) Exactly one stub play number must appear under the one rub-off spot on the stub portion of the ticket.

(c) Each of the six play numbers must have a caption underneath, and each must agree with its caption.

(d) The stub play number must have a stub caption underneath and it must agree with its caption.

(e) Each of the six play numbers and play number captions must be present in their entirety and be fully legible.

(f) The stub play number and stub captions must be present in their entirety and be fully legible.

(g) Each of the six play numbers and their captions must be printed in grey-black ink.

(h) The one stub play number and its stub caption must be printed in grey-black ink.

(i) The pack-ticket number, validation number, and agent validation code must be present in their entirety and be legible on the ticket. The validation number shall correspond, using the lottery's codes, to the play numbers on the ticket.

(j) The validation number on the stub must be present in its entirety and be legible. The validation number shall correspond, using the lottery's codes, to the stub play number.

(k) Neither the ticket nor the stub may be altered, unreadable, reconstituted, or tampered with in any manner.

(l) Neither the ticket nor the stub may be counterfeit in whole or in part.

(m) The validation numbers and agent validation code shall be printed in grey-black ink, and the pack-ticket number shall be printed in red ink.

(n) The ticket must have been issued by the director in an authorized manner.

(o) Neither the ticket nor the stub may be stolen nor appear on any list of omitted tickets on file with the director.

(p) The play numbers and their captions, the stub play number and its stub caption, the validation numbers, the agent validation code and

(6) Pack: A set of 400 fanfolded instant game tickets separated by perforations and packaged in a plastic bag or plastic shrinkwrapping.

(7) Stub Play Number: The letter found under the removable covering on the front of the stub (right side) portion of the ticket. The stub play number is printed in Archer font in positive with a small caption beneath it. The stub play numbers are "B", "O", "N", "A", and "Z".

(8) Stub Captions: The small printed material appearing below each stub play number which verifies and corresponds with that stub play number. This stub caption is a double repetition of the stub play number. One and only one of these stub captions appears under the stub play number and is printed in gray-black ink in positive in 5 x 9 font. For Instant Game Number 10, the stub captions which correspond with and verify the stub play numbers are as follows:

<u>STUB PLAY NUMBER</u>	<u>STUB CAPTION</u>
B	BB
O	OO
N	NN
A	AA
Z	ZZ

NEW SECTION

WAC 315-11-121 CRITERIA FOR INSTANT GAME NUMBER 10. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of Prize Winning Tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having a TICKET, \$2.00, \$5.00, \$25.00, \$500, or \$5,000 as a play number in any three of the six spots on the main portion of the ticket shall win the following prize:

- Three TICKET play numbers - Win one Free Ticket
- Three \$2.00 play numbers - Win \$2.00
- Three \$5.00 play numbers - Win \$5.00
- Three \$25.00 play numbers - Win \$25.00
- Three \$500 play numbers - Win \$500
- Three \$5,000 play numbers - Win \$5,000

(b) The bearer of a ticket having a TICKET, \$2.00, \$5.00, \$25.00, \$500, or \$5,000 Play Number in any two of the six spots on the main portion of the ticket and an illustration of a HORSESHOE in a third spot shall win one of the following prizes:

- Two TICKET Play Numbers plus Horseshoe - Win two Free Tickets
- Two \$2.00 Play Numbers plus Horseshoe - Win \$4.00
- Two \$5.00 Play Numbers plus Horseshoe - Win \$10.00
- Two \$25.00 Play Numbers plus Horseshoe - Win \$50.00
- Two \$500 Play Numbers plus Horseshoe - Win \$1,000
- Two \$5,000 Play Numbers plus Horseshoe - Win \$10,000

(c) In any event, only the highest instant prize amount meeting the standards of (a) and (b) will be paid on a given ticket.

(d) The bearer of seven stubs each containing one of the following Stub Play Numbers, "B", "O", "N", "A", "N", "Z", and "A" so that there are seven stubs which collectively spell the word "Bonanza" shall be entitled to a prize of \$50,000. Each stub must be from a valid Instant Game 10 "Bonanza" ticket stub. One or more stubs or the claim form must be signed by the claimant. A claim shall not include more than one name.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or payable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery, to the particular ticket validation requirements for Instant Game Number 10 set forth in WAC 315-11-122, and to the requirements stated on the back of each ticket.

the pack-ticket number must be right-side-up and not reversed in any manner.

(q) The ticket must be complete, and not miscut, and have exactly one play number and exactly one caption under each of the six rub-off spots on the main (left) portion of the ticket, exactly one pack-ticket number, exactly one agent validation code, and exactly one validation number on the main (left) portion of the ticket.

(r) The stub must be complete, and not miscut, and have exactly one stub play number and exactly one stub caption on the stub (right) portion of the ticket, and exactly one validation number.

(s) The validation number of an apparent winning ticket shall appear on the lottery's official list of validation numbers of winning tickets; and a ticket with that validation number shall not have been previously paid.

(t) Neither the ticket nor the stub may be blank or partially blank, misregistered, defective, or printed or produced in error.

(u) Each of the play numbers must be exactly one of those described in WAC 315-11-120(1) above and each of the captions to the play numbers must be exactly one of those described in WAC 315-11-120 (4) above; each of the stub play numbers must be exactly one of those described in WAC 315-11-120 (7) and each of the stub captions must be exactly one of those described in WAC 315-11-120 (8) above.

(v) Each of the six play numbers on the main portion of the ticket and the one stub play number on the stub (right) portion of the ticket must be printed in the Mead Archer size font and must correspond precisely to the artwork on file with the director; each of the six play number captions and the one stub caption must be printed in the Mead 5 x 9 font and must correspond precisely to the artwork on file with the director; the pack-ticket number must be .11" high in red and correspond precisely to the artwork on file with the director; and the validation numbers must be printed in the Mead 9 x 12 font and must correspond precisely to the artwork on file with the director.

(w) The display printing must be regular in every respect and correspond precisely with the artwork on file with the director.

(x) The ticket or the stub must pass all additional confidential validation requirements of the director.

(2) Any ticket or the stub not passing all the validation requirements in WAC 315-11-122 (1) is invalid and ineligible for any prize.

(3) The director may replace any invalid ticket or stub with an unplayed ticket of equivalent sales price from any current instant game or issue a refund of the sales price. In the event a defective ticket is purchased, the only responsibility or liability of the lottery shall be the replacement of the defective ticket with an unplayed ticket of equivalent sales price from any current instant game or issue a refund of the sales price. However, if the ticket is partially mutilated or if the ticket is not intact but can still be validated by the other validation tests, the director may pay the prize for that ticket.

Dated: March 21, 1984

By: John F. Spencer

Deputy Director

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-3903, Edmonds, City of.

Description of Purpose: Adoption of a revised shoreline master program into the state master program, chapter 173-19 WAC.

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendment adopts revisions to the shoreline master program for the city of Edmonds.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the Department of Ecology for approval. The programs do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jeanne Holloman, WDOE, MS - PV-11, Olympia, WA 98504, (206) 459-6287.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not required.

AMENDATORY SECTION (Amending Order DE 80-13, filed 5/14/80)

WAC 173-19-3903 EDMONDS, CITY OF. City of Edmonds master program approved January 23, 1976. Revision approved March 5, 1979. Revision approved May 6, 1980. Revision approved April 30, 1984.

WSR 84-07-054

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Filed March 21, 1984]

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 Edmonds, City of, WAC 173-19-3903;

that the agency will at 2:00 p.m., Wednesday, April 25, 1984, in the WDOE Rowsix Conference Room, Building 4, 4224 6th Avenue S.E., Lacey, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 30, 1984.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 26, 1984.

WSR 84-07-055

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Filed March 21, 1984]

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 Tacoma, City of, WAC 173-19-3514;

that the agency will at 2:00 p.m., Wednesday, April 25, 1984, in the WDOE Rowsix Conference Room, Building 4, 4224 6th Avenue S.E., Lacey, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 9, 1984.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 30, 1984.

Dated: March 21, 1984
 By: John F. Spencer
 Deputy Director

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-3514 Tacoma, City of.

Description of Purpose: Adoption of a revised shoreline master program into the state master program, chapter 173-19 WAC.

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendment adopts revisions to the shoreline master program for the city of Tacoma.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the Department of Ecology for approval. The programs do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jeanne Holloman, WDOE, MS - PV-11, Olympia, WA 98504, (206) 459-6287.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not required.

AMENDATORY SECTION (Amending Order DE 83-16 [DE 83-40], filed 5/24/83 [3/2/84]).

WAC 173-19-3514 TACOMA, CITY OF. City of Tacoma master program approved April 5, 1977. Revision approved December 5, 1979. Revision approved March 17, 1981. Revision approved November 23, 1981. Revision approved April 6, 1982. Revision approved May 24, 1983. Revision approved May 9, 1984.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.04.058 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 84-07-056
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed March 21, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Ecology (WDOE) intends to adopt, amend, or repeal rules concerning the Okanogan River basin water resources management program, chapter 173-549 WAC. The amendments are intended to alleviate several management problems that have been encountered in the seven plus years since adoption. The changes will provide much needed flexibility to develop

specific solutions for specific problems and will provide WDOE with an improved enforcement capability;

that the agency will at 8:00 p.m., Tuesday, April 24, 1984, in the Redwood Room of the Ceders Inn in Okanogan, Washington, conduct a public hearing on the proposed rules.

A public meeting will be held at 7:00 p.m. to discuss the proposed amendments prior to the public hearing.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 19, 1984.

The authority under which these rules are proposed is chapters 90.54 and 90.22 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 8, 1984.

Dated: March 21, 1984
 By: Donald W. Moos
 Director

STATEMENT OF PURPOSE

Title: Amendments to Okanogan River basin water resources management program, chapter 173-549 WAC.

Description of Purpose: To amend the regulation (originally adopted in July 1976) to improve its implementation and effectiveness based on several years of experience with the regulation.

Statutory Authority: Chapter 90.54 RCW, the Water Resources Act of 1971, chapter 90.22 RCW, minimum water flows and levels.

Summary of Rule: Corrects a hydraulic imbalance in the old base flows, subjects all future water rights to in-stream flow requirements at all downstream control stations, states the department's policy regarding future hydroelectric development, changes a full-year closure on tributary streams to a partial year (May 1 - October 1) closure, closes the Upper Okanogan management reach from June 15 - August 15, changes a full-year closure on lakes to a policy of protection of lakes substantially in their natural condition, subjects future water rights from Lake Osoyoos to a minimum lake elevation requirement of 910.5 feet USCGS after a new outlet control structure is built, establishes a more flexible ground water policy in tributary basins, exempts single domestic use and stockwater but allows for partial curtailment due to cumulative impacts of numerous small diversions, and requires review of the regulation at least once in every five-year period. In response to these changes, the allocation of specific quantities of water for specified uses has been deleted along with the prioritization of future uses, as have the streams and lake closures which are modified in the revised regulation.

Reasons Supporting Proposed Action: A number of problems have been encountered since the adoption of the regulation in July 1976. The proposed changes would alleviate these problems and increase the department's ability to make sound water resource management decisions on a case-by-case basis and provides much needed flexibility to develop specific solutions to specific problems.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Bucknell, Department

of Ecology, MS PV-11, Olympia, WA 98504, (206) 459-6115; and Doug Clausing, WDOE Central Region, 3601 West Washington, Yakima, WA 98903, (509) 575-2491.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: N/A.

Small Business Economic Impact Statement: N/A.

AMENDATORY SECTION (Amending Order DE 76-25, filed 7/14/76)

WAC 173-549-010 GENERAL PROVISION. ~~((These rules, including any subsequent additions and amendments, apply to waters within and contributing to the Okanogan River Basin, WRIA 49 (see WAC 173-500-040). Chapter 173-500 WAC, the general rules of the Department of Ecology for the implementation of the comprehensive water resources program, applies to this chapter 173-549 WAC.))~~ These rules apply to waters within the Okanogan River Basin (WRIA 49) as defined in WAC 173-500-040. This chapter is promulgated pursuant to chapter 90.54 RCW (The Water Resources Act of 1971) and chapter 90.22 RCW (Minimum Water Flows and Levels) and in accordance with chapter 173-500 WAC (Water Resources Management Program).

NEW SECTION

WAC 173-549-015 PURPOSE. The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Okanogan River Basin with instream flows and levels necessary to provide protection for wildlife, fish, scenic, aesthetic, and environmental values, recreation, navigation, and water quality while, at the same time, allowing other beneficial uses of water consistent with the intent of chapter 90.54 RCW.

AMENDATORY SECTION (Amending Order DE 76-25, filed 7/14/76)

WAC 173-549-020 ESTABLISHMENT OF ~~((BASE))~~ INSTREAM FLOWS. (1) ~~((BASE))~~ Instream flows are established for stream management units with monitoring to take place at certain control points as follows:

Stream Management Unit Information

Stream Management Unit Name, Control Station Name and Number	Control Station Location by River Mile, Section, Township, Range	Affected Stream Reach
Lower Okanogan		
Okanogan R. at Malott (12447200)	17.0, 9-32-25E	Okanogan River confluence with Wells ((Pool)) Pool to confluence of Chewiliken Cr.
Middle Okanogan		
Okanogan R. nr. Tonasket (12445000)	50.8, 8-36-27E	Okanogan River confluence of Chewiliken Creek to confluence Similkameen River
Upper Okanogan		
Okanogan R. at Oroville (12439500)	77.3, 27-40-27E	Okanogan River confluence of Similkameen River to Osoyoos Lake

Stream Management Unit Name, Control Station Name and Number	Control Station Location by River Mile, Section, Township, Range	Affected Stream Reach
Similkameen		
Similkameen R. at Nighthawk (12442500)	15.8, 7-40-26E	Similkameen River ((mouth)) confluence with Okanogan River to Canadian Border

(2) ~~((Base))~~ Instream flows established for the stream management units in WAC 173-549-020(1) are as follows:

~~((Base))~~ Instream Flows in the Okanogan River (All Figures in Cubic Feet Per Second)

Month	Day	Lower Okanogan 12447200	Middle Okanogan 12445000	Upper Okanogan 12439500	Similkameen 12442500
Jan.	1	((1,000)) 860	800	320	400
	15	((1,000)) 830	800	320	400
Feb.	1	((1,000)) 820	800	320	400
	15	((1,000)) 850	800	320	400
Mar.	1	((1,000)) 880	800	320	((400)) 425
	15	((1,000)) 900	800	320	((400)) 450
Apr.	1	((1,200)) 925	910	330	510
	15	((1,250)) 1,100	1,070	340	640
May	1	((1,400)) 1,750	1,200	350	((800)) 1,100
	15	((4,000)) 3,800	3,800	500	((3,000)) 3,400
Jun.	1	((4,000)) 3,800	3,800	500	((3,000)) 3,400
	15	((4,000)) 3,800	3,800	500	((3,000)) 3,400
Jul.	1	((2,400)) 2,100	2,150	420	((1,650)) 1,900
	15	((1,400)) 1,200	1,200	350	((900)) 1,070
Aug.	1	((1,050)) 800	840	320	((590)) 690
	15	((800)) 600	600	300	((400)) 440
Sept.	1	((800)) 620	600	300	400
	15	((800)) 700	600	300	400
Oct.	1	((940)) 750	730	330	450
	15	((1,100)) 960	900	370	500
Nov.	1	((1,100)) 950	900	370	500
	15	((1,100)) 950	900	320	500
Dec.	1	((1,100)) 930	900	320	500
	15	((1,050)) 900	850	320	450

(3) ~~((Base))~~ Instream flow hydrographs, as represented in ~~((Figure H in the document entitled "Water Resources Management Program, Okanogan River Basin" dated 1976))~~ WAC 173-549-900, shall be

used for definition of ((base)) instream flows on those days not specifically identified in WAC 173-549-020(2) ((and WAC 173-549-030)).

(4) ((All rights hereafter established shall be subject to the base flows established in WAC 173-549-020(1) through (3), except as provided under WAC 173-549-030 herein)) Future consumptive water right permits hereafter issued for diversion of surface water from the mainstem Okanogan River and the Similkameen River shall be expressly subject to instream flows established in WAC 173-549-020(1) through (3) except those described in WAC 173-549-070.

(5) ((Future appropriations of water which would conflict with base flows shall be authorized, by the director, only in those situations when it is clear that overriding considerations of the public interest will be served)) Projects that would reduce the flow in a portion of a stream's length (e.g. hydroelectric projects that bypass a portion of a stream) will be considered consumptive only with respect to the affected portion of the stream. Such projects will be subject to instream flows as specified by the department. These flows may be those established in WAC 173-549-020 or, when appropriate, may be flows specifically tailored to that particular project and stream reach. When studies are required to determine such reach- and project-specific flow requirements, the department may require the project proponent to conduct such studies.

NEW SECTION

WAC 173-549-025 STREAM CLOSURES. (1) Consistent with the provisions of chapter 90.54 RCW, it is the policy of the department to preserve an appropriate minimum instream flow in all perennial streams and rivers of the Okanogan River Basin for protection of instream values.

(2) In keeping with this policy, a partial year closure from May 1 to October 1 will be established on all perennial streams in the basin except those with established instream flows as described in WAC 173-549-020.

(3) The upper Okanogan stream management unit as established in WAC 173-549-020(1) is closed to further consumptive appropriation from June 15 through August 31 with the exception of single-domestic use and stockwatering use, provided that no alternative source of supply is available.

(4) When a project (as described in WAC 173-549-020(5)) is proposed on a stream that is closed to further appropriations, the department shall deny the water right application unless the project proponent can adequately demonstrate that the project does not conflict with the intent of the closure.

NEW SECTION

WAC 173-549-027 POLICY STATEMENT FOR FUTURE PERMITTING ACTIONS. (1) Consistent with the provisions of chapter 90.54 RCW, it is the policy of the department to preserve an appropriate instream flow in all perennial streams and rivers as well as the water levels in all lakes in the Okanogan River Basin by encouraging the use of alternate sources of water which include (a) ground water, (b) storage water, or (c) acquisition of existing water rights.

(2) All future permits to appropriate water from the Okanogan River, the Similkameen River and perennial tributaries shall be subject to the required flows at all downstream control stations as established in WAC 173-549-020.

NEW SECTION

WAC 173-549-035 LAKES. (1) In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural condition. In considering future water right applications, the department shall deny any application for surface or ground water which will result in a significant decrease in lake level or in the stream flow of any stream draining the lake, except that no decrease in stream flow shall be allowed during the May 1 - October 1 stream closure period.

(2) Notwithstanding the above, nothing in this chapter shall limit the utilization of waters stored for later release, provided such storage does not infringe upon existing rights or instream flow and is duly permitted under RCW 90.03.290 and 90.03.350.

(3) Any future water rights for waters from Osoyoos Lake or from ground waters determined to be in significant hydraulic continuity with

Osoyoos Lake, issued after the effective date of this chapter and upon completion of the new Osoyoos Lake outlet control structure, shall be subject to the maintenance of a water surface level of 910.5 feet USCGS in Osoyoos Lake and said diversions shall be curtailed when the lake elevation drops below elevation 910.5 feet USCGS.

(4) Notwithstanding the provisions of this chapter, the construction and operation of the proposed new outlet control structure for Osoyoos Lake shall be consistent with the terms and conditions of the International Joint Commission Order of Approval signed on December 9, 1982, pursuant to the 1909 Boundary Waters Treaty.

AMENDATORY SECTION (Amending Order DE 76-25, filed 7/14/76)

WAC 173-549-060 GROUND WATER. ((If it is determined that a future development of ground water affects surface waters subject to the provisions of chapter 173-549 WAC, then rights to said ground water)) If department investigations determine that there is significant hydraulic continuity between surface water and the proposed ground water source, any water right permit or certificate issued shall be subject to the same conditions as affected surface waters. If department investigations determine that withdrawal of ground water from the source aquifers would not interfere with stream flow during the period of stream closure or with maintenance of minimum instream flows, then applications to appropriate public ground waters may be approved.

AMENDATORY SECTION (Amending Order DE 76-25, filed 7/14/76)

WAC 173-549-070 EFFECT ON PRIOR RIGHTS AND ((EX-CEPTIONS)) EXEMPTIONS. ((Nothing in this chapter shall be construed to lessen, enlarge or modify the existing rights acquired by appropriation or otherwise. Nothing in this chapter shall be construed to adversely affect Indian reserved rights)) (1) Nothing in this chapter shall affect any existing water rights including, among others, riparian, appropriate, and federal Indian and non-Indian reserved rights, existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir or related facilities.

(2) Single domestic use and stockwatering use shall be exempt from the provisions established in this chapter except that, if the cumulative impacts of numerous domestic diversions would significantly affect either the quantity of water available for instream uses or the maintenance of lake levels, then only domestic in-house use shall be exempt if no alternative source is available.

(3) Nonconsumptive uses which are compatible with the intent of the chapter may be approved.

NEW SECTION

WAC 173-549-080 FUTURE RIGHTS. No rights to divert or store public surface or ground waters of the Okanogan River Basin, WRIA 49, shall hereafter be granted which shall conflict with the purpose of this chapter except as provided in RCW 90.54.020(3)(a).

NEW SECTION

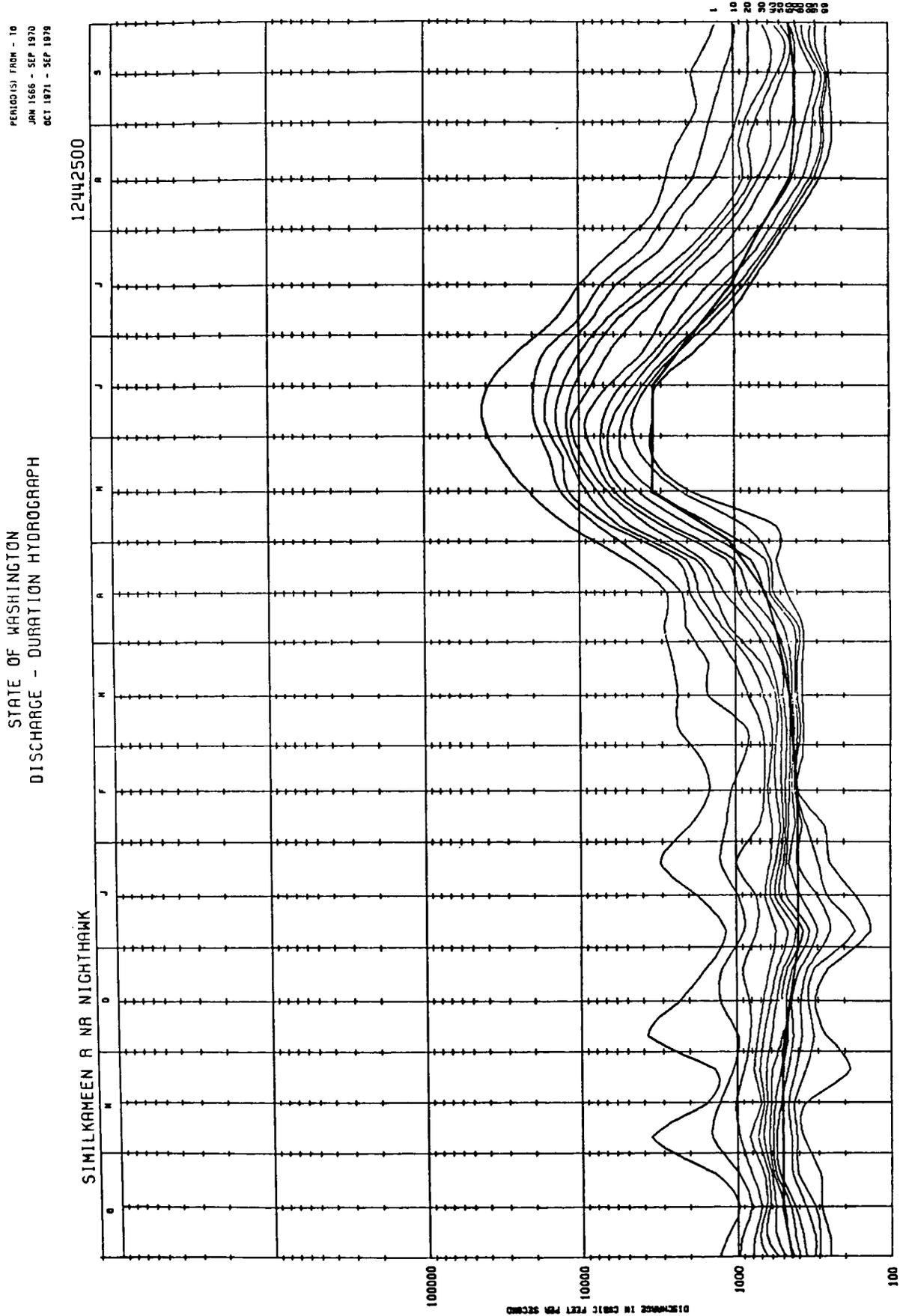
WAC 173-549-090 ENFORCEMENT. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 43.83B.335.

NEW SECTION

WAC 173-549-100 REGULATION REVIEW. This chapter shall be reviewed by the department of ecology at least once in every five-year period.

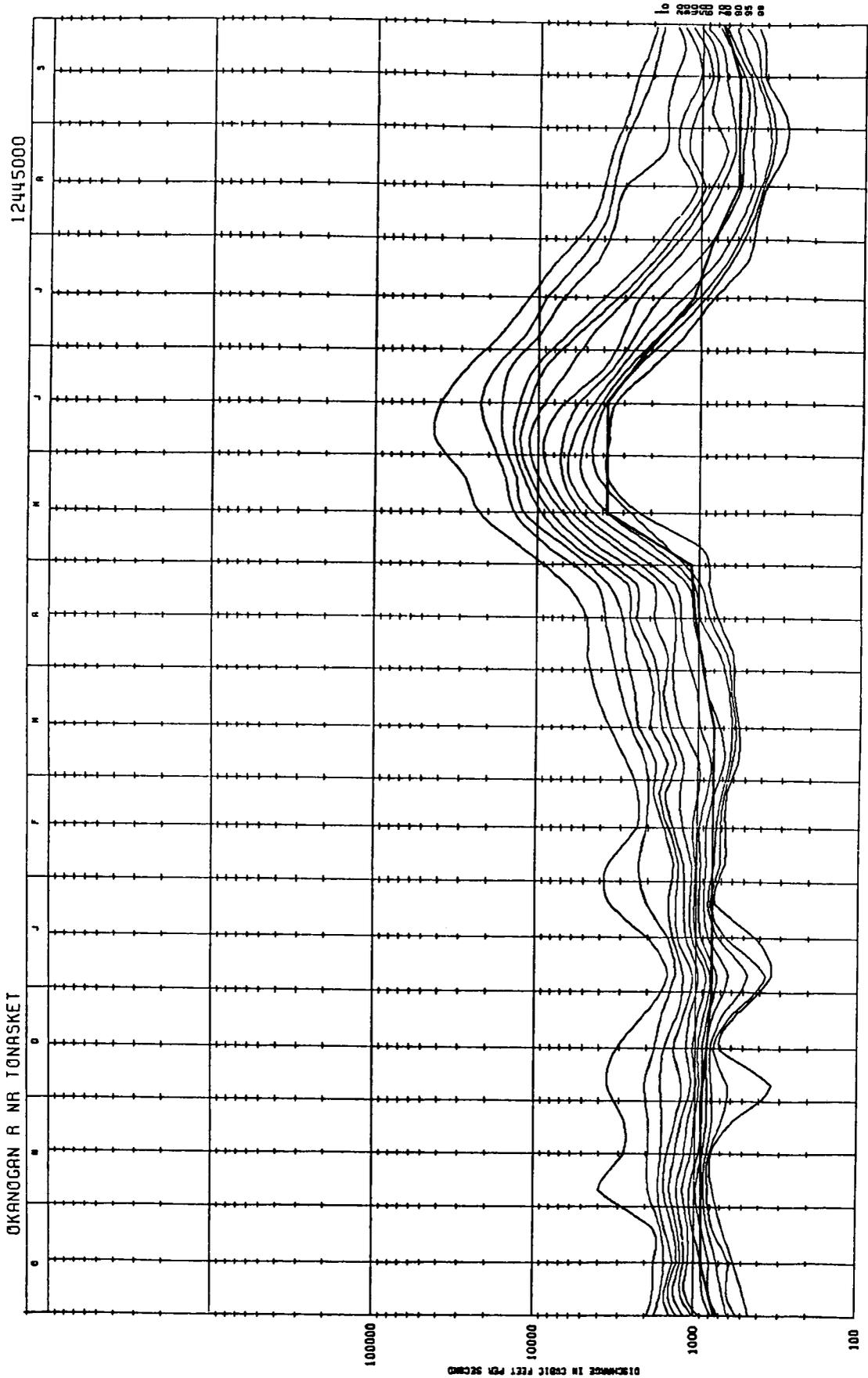
NEW SECTION

WAC 173-549-900 INSTREAM FLOW HYDROGRAPHS.



STATE OF WASHINGTON
DISCHARGE - DURATION HYDROGRAPH

PERIOD(S) FROM - TO
JAN 1966 - SEP 1970
OCT 1971 - SEP 1979

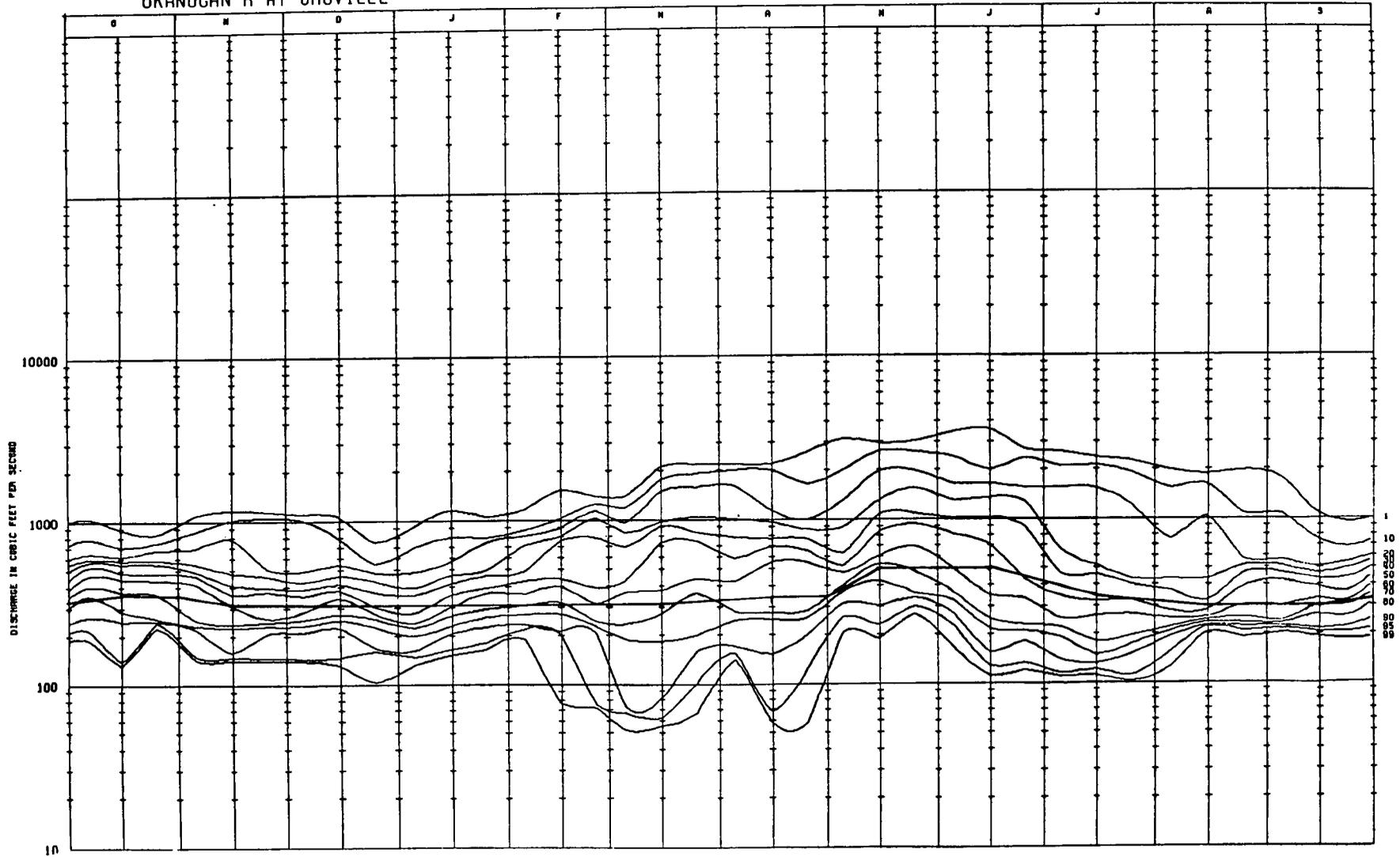


STATE OF WASHINGTON
DISCHARGE - DURATION HYDROGRAPH

PERIOD(S) FROM - TO
JAN 1966 - SEP 1970
OCT 1971 - SEP 1978

OKANOGAN R AT OROVILLE

12439500



[109]

REPEALER

The following sections of the Washington Administrative Code are each repealed:

- (1) WAC 173-549-030 FUTURE ALLOCATIONS—RESERVATION OF SURFACE WATER FOR BENEFICIAL USES.
- (2) WAC 173-549-040 PRIORITY OF FUTURE WATER RIGHTS DURING TIMES OF WATER SHORTAGE.
- (3) WAC 173-549-050 STREAMS AND LAKES CLOSED TO FURTHER CONSUMPTIVE APPROPRIATIONS.

WSR 84-07-057
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed March 21, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Ecology intends to adopt, amend, or repeal rules concerning the proposed rules amend chapter 173-303 WAC, Dangerous waste regulations in the following areas: The moderate risk waste standards amendment provides a lesser degree of mandatory handling standards for certain wastes which pose a moderate threat to the environment; the recycling standards amendment provides various "levels of regulation" depending on the degree of hazard; the land disposal/groundwater monitoring standards specify groundwater requirements more suited for Washington's soil conditions and topography; and the technical amendments correct errors and clarify the existing regulation.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 17, 1984.

The authority under which these rules are proposed is chapter 70.105 RCW.

The specific statute these rules are intended to implement is chapter 70.105 RCW.

This notice is connected to and continues the matter in Notice Nos. WSR 83-21-090 and 84-04-075 filed with the code reviser's office on October 19, 1983, and February 1, 1984.

Dated: March 21, 1984
 By: John F. Spencer
 Deputy Director

WSR 84-07-058
EMERGENCY RULES
DEPARTMENT OF ECOLOGY
 [Order 84-12—Filed March 21, 1984]

I, John F. Spencer, deputy director of the Department of Ecology, do promulgate and adopt at Lacey, Washington, the annexed rules relating to National Pollutant Discharge Elimination System Permit Program, chapter 173-220 WAC; WAC 173-220-030, 173-220-130, 173-220-150, 173-220-210 and 173-220-220.

I, John F. Spencer, 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 addition of federal government in the definition of person in chapter 173-220 WAC is necessary to fully implement the provisions of the Federal Clean Water Act.

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

This rule is promulgated pursuant to RCW 90.48.035 and 90.48.260 and is intended to administratively implement that statute.

This rule is promulgated pursuant to chapter 43.21A RCW which directs that the Department of Ecology has authority to implement the provisions of the Water Pollution Control Act, chapter 90.48 RCW.

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 March 21, 1984.

By John F. Spencer
 Deputy Director

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-030 DEFINITIONS. For purposes of this chapter, the following definitions shall be applicable:

- (1) "Department" means department of ecology.
- (2) "Director" means the director of the department of ecology or his authorized representative.
- (3) "Administrator" means the administrator of the United States Environmental Protection Agency.
- (4) "Regional administrator" means the regional administrator of Region X of the Environmental Protection Agency (EPA).
- (5) "Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.
- (6) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water. This term does not include sewage from vessels within the meaning of section 312 of the FWPCA nor does it include dredged or fill material discharged in accordance with a permit issued under section 404 of the FWPCA.

(7) "Navigable waters of the state" means all navigable waters as defined in section 502 of the FWPCA within the boundaries of the state such as lakes, rivers, ponds, streams, inland waters, ocean, bays, estuaries, sounds and inlets.

(8) "Person" ~~((means an individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, or any interstate~~

body)) includes any political subdivision, local, state, or federal government agency, municipality, industry, public or private corporation, partnership, association, firm, individual, or any other entity whatsoever.

(9) "Discharge of pollutant" and the term "discharge of pollutants" each means (a) any addition of any pollutant or combination of pollutants to navigable waters of the state from any point source, (b) any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source, other than a vessel or other floating craft which is being used as a means of transportation.

(10) "Major discharger" means any discharger appearing on the list of major dischargers appearing in the annual state-EPA agreement.

(11) "Combined waste treatment facility" means any publicly owned waste treatment facility in which the maximum monthly average influent from any one industrial category, or categories producing similar wastes, constitutes over eighty-five percent of the design load for biochemical oxygen demand or suspended solids. Each single industrial category must contribute a minimum of ten percent of the applicable load.

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-130 EFFLUENT LIMITATIONS, WATER QUALITY STANDARDS AND OTHER REQUIREMENTS FOR PERMITS. (1) Any permit issued by the department shall apply and insure compliance with all of the following, whenever applicable:

(a) Effluent limitations under sections 301, 302, 306, and 307 of the FWPCA. The effluent limitations shall not be less stringent than those based upon the treatment facility design efficiency contained in approved engineering plans and reports or approved revisions hereto. The effluent limits shall reflect any ((seasonal)) variation in industrial loading.

For combined waste treatment facilities, the effluent limitations for biochemical oxygen demand or suspended solids may be adjusted upwards to a maximum allowed by applying effluent limitations pursuant to sections 301(b)(1)(B) or 301(h) of the FWPCA to the domestic portion of the influent and effluent limitations pursuant to sections 301(b)(1)(A)(i), 301(b)(2)(A), and 301(b)(2)(E) of the FWPCA or standards of performance pursuant to section 306 of the FWPCA to the industrial portion of the influent: PROVIDED, That the following additional condition is met:

Fecal coliform levels shall not exceed a monthly average of 200 organisms per 100 ml with a maximum weekly average of 400 organisms per 100 ml, unless a waiver is granted pursuant to section 301(h) of the FWPCA;

(b) Any more stringent limitation, including those:

(i) Necessary to meet water quality standards, treatment standards or schedules of compliance established pursuant to any state law or regulation under authority reserved to the state by section 510 of the FWPCA; or
(ii) Necessary to meet any federal law or regulation other than the FWPCA or regulations thereunder, or

(iii) Required to implement any applicable water quality standards; such limitations to include any legally applicable requirements necessary to implement total maximum daily loads established pursuant to section 303(d) and incorporated in the continuing planning process approved under section 303(e) of the FWPCA and any regulations and guidelines issued pursuant thereto;

(iv) Necessary to prevent or control pollutant discharges from plant site runoff, spillage or leaks, sludge or waste disposal, or raw material storage;

(v) Necessary to provide all known, available and reasonable methods of treatment.

(c) Any more stringent legal applicable requirements necessary to comply with a plan approved pursuant to section 208(b) of the FWPCA; and

(d) Prior to promulgation by the administrator of applicable effluent standards and limitations pursuant to sections 301, 302, 306, and 307 of the FWPCA, such conditions as the department determines are necessary to carry out the provisions of the FWPCA.

(2) In any case where an issued permit applies the effluent standards and limitations described in subparagraph (a) of paragraph (1) of this section, the department shall make a finding that any discharge authorized by the permit will not violate applicable water quality standards.

(3) In the application of effluent standards and limitations, water quality standards and other legally applicable requirements pursuant to paragraphs (1) and (2) hereof, each issued permit shall specify average and maximum daily quantitative (in terms of weight) or other such appropriate limitations for the level of pollutants and the authorized discharge.

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-150 OTHER TERMS AND CONDITIONS. (1) In addition to the requirements of WAC 173-220-130 and 173-220-140, each issued permit shall require that:

(a) All discharges authorized by the permit shall be consistent with the terms and conditions of the permit; any facility expansions, production increases or process modifications which would result in new or increased discharges of pollutants must be reported to the department by submission of a new application or supplement thereto; or, if such discharge does not violate effluent limitations specified in the permit, by submission to the department of notice of such new or increased discharges of pollutants; any discharge of any pollutant more frequent than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit.

(b) The permit may be modified, suspended or revoked in whole or in part during its terms for cause including, but not limited to, the following:

(i) Violation of any term or condition of the permit;
(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; and
(iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(c) The permittee shall allow the department or its authorized representative upon the presentation of credentials and at reasonable times:

(i) To enter upon permittee's premises in which an effluent source is located or in which any records are required to be kept under terms and conditions of the permit subject to any access restrictions due to the nature of the project;

(ii) To have access to and copy at reasonable cost any records required to be kept under terms and conditions of the permit;

(iii) To inspect any monitoring equipment or method required in the permit; or

(iv) To sample any discharge of pollutants.

(d) That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall provide notice to the department of the following:

(i) Any new introduction of pollutants into such treatment works from a source which would be a new source as defined in section 306 of the FWPCA if such source were discharging pollutants;

(ii) Except as to such categories and classes of point sources or discharges specified by the department, any new introduction of pollutants into such treatment works from a source which would be subject to section 301 of the FWPCA if such source were discharging pollutants;

(iii) Any substantial change in volume or character of pollutants being introduced into such treatment works by a source introducing pollutants into such works at the time of issuance of the permit.

Such notice shall include information on:

(I) The quality and quantity of effluent to be introduced into such treatment works; and

(II) Any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works.

(e) The permittee shall at all times properly operate and maintain any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the permit. Where design criteria have been established, the permittee shall not permit flows or waste loadings to exceed approved design criteria, or approved revisions thereto.

(f) If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under section 307(a) of the FWPCA for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the permit, the department shall revise or modify the permit in accordance with the toxic effluent standard of prohibition and so notify the permittee.

~~((3))~~ (2) Every permit shall be conditioned to insure that any industrial user of any publicly owned treatment works will comply with sections 204(b), 307, and 308 of the FWPCA.

(3) Permits for domestic wastewater facilities shall be issued only to a public entity, except in the following circumstances:

(a) Facilities existing or approved for construction with private operation on or before the effective date of this chapter, until such time as the facility is expanded;

(b) Facilities that serve a single nonresidential, industrial, or commercial establishment. Commercial/industrial complexes serving multiple owners or tenants and multiple residential dwelling facilities such as mobile home parks, apartments, and condominiums are not considered single commercial establishments for the purpose of the preceding sentence.

(c) Facilities that are owned by nonpublic entities and under contract to a public entity shall be issued a joint permit to both the owner and the public entity.

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

WAC 173-220-210 MONITORING, RECORDING AND REPORTING. (1) Monitoring.

(a) Any discharge authorized by a permit may be subject to such monitoring requirements as may be reasonably required by the department, including the installation, use, and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). These monitoring requirements would normally include:

(i) Flow (in gallons per day); ~~((and (ii) all of the following pollutants:~~

~~((A)))~~ (ii) Pollutants (either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) which are subject to reduction or elimination under the terms and conditions of the permit;

~~((B)))~~ (iii) Pollutants which the department finds could have a significant impact on the quality of navigable waters; and

~~((C)))~~ (iv) Pollutants specified by the administrator, in regulations issued pursuant to the FWPCA, as subject to monitoring(~~;~~ and).

(b) Each effluent flow or pollutant required to be monitored pursuant to ((paragraph (b))) subsection (a) of this section shall be monitored at intervals sufficiently frequent to yield data which reasonably characterizes the nature of the discharge of the monitored effluent flow or pollutant. Variable effluent flows and pollutant levels may be monitored at more frequent intervals than relatively constant effluent flows and pollutant levels which may be monitored at less frequent intervals.

(c) Monitoring of intake water, influent to treatment facilities, ((and/or other)) internal waste streams, and, or receiving waters may be required when determined necessary by the department to verify compliance with net discharge limitations or removal requirements, ((or) to verify that proper waste treatment or control practice are being maintained, or to determine the effects of the discharge on the waters of the state.

(2) Recording of monitoring activities and results. Any permit which requires monitoring of the authorized discharge shall require that:

(a) The permittee shall maintain records of all information resulting from any monitoring activities required of him in his permit;

(b) Any records of monitoring activities and results shall include for all samples:

(i) The date, exact place, and time of sampling;
 (ii) The dates analyses were performed;

- (iii) Who performed the analyses;
- (iv) The analytical techniques/methods used; and
- (v) The results of such analyses; and

(c) The permittee shall be required to retain for a minimum of three years any records of monitoring activities and results including all original strip chart recording for continuous monitoring instrumentation and calibration and maintenance records. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the department or regional administrator.

(3) Reporting of monitoring results.

(a) The permittee shall periodically report (at a frequency of not less than once per year) on the proper reporting form, the monitoring results obtained pursuant to monitoring requirements in a permit. In addition to the required reporting form, the department at its discretion may require submission of such other results as it determines to be necessary.

(b) Monitoring reports shall be signed by:

(i) In the case of corporations, by a responsible corporate officer or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge originates.

(ii) In the case of a partnership, by a general partner.

(iii) In the case of a sole proprietorship, by the proprietor.

(iv) In the case of a municipal, state or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.

AMENDATORY SECTION (Amending Order DE 82-39, filed 12/1/82)

~~WAC 173-220-220 CONTROL OF DISPOSAL OF POLLUTANTS INTO WELLS. ((+)) The disposal of pollutants into wells(, ~~excepting in the most extraordinary circumstances, is not authorized by the department.~~~~

~~(2) All applications requesting permission to dispose of pollutants into wells shall be processed under RCW 90.48.160, and/or under an approved underground injection control program.~~

~~(3) Under the extraordinary circumstance where an application for a permit is approved, the department shall include terms and conditions which shall control the proposed disposal in order to prevent pollution of ground and surface water resources and to protect the public health and welfare)) is regulated by the Underground injection control program, chapter 173-218 WAC.~~

WSR 84-07-059

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Filed March 21, 1984]

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 Olympia, City of, WAC 173-19-4203.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 30, 1984.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 27, 1984.

Dated: March 21, 1984

By: John F. Spencer
Deputy Director

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-4203 Olympia, City of.

Description of Purpose: Adoption of a revised shoreline master program into the state master program, chapter 173-19 WAC.

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendment adopts revisions to the shoreline master program for the city of Olympia.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the Department of Ecology for approval. The programs do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jeanne Holloman, WDOE, MS - PV-11, Olympia, WA 98504. (206) 459-6287.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not required.

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-4203 OLYMPIA, CITY OF. City of Olympia master program approved May 21, 1976. Revision approved April 11, 1984.

WSR 84-07-060
EMERGENCY RULES
DEPARTMENT OF ECOLOGY
[Order DE 84-13—Filed March 21, 1984]

I, John F. Spencer, deputy director of the Department of Ecology, do promulgate and adopt at Lacey, Washington, the annexed rules relating to Edmonds, City of, amending WAC 173-19-3903.

I, John F. Spencer, Deputy Director, 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 port and city of Edmonds are planning a port expansion which will require an amendment to the city's shoreline master program. Because of timing to meet Department of Fisheries requirements, adoption of the master program needs to be expedited to enable review of the permit. Staff review of the amendment finds it consistent with the Shoreline Act and state's guidelines for master programs.

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

This rule is promulgated pursuant to RCW 90.58.120 and 90.58.200 and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 34.04.030 which directs that the Department of Ecology has authority to implement the provisions of chapters 90.58 and 34.04 RCW.

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 March 21, 1984.

By John F. Spencer
Deputy Director

AMENDATORY SECTION (Amending Order DE 80-13, filed 5/14/80)

WAC 173-19-3903 EDMONDS, CITY OF. City of Edmonds master program approved January 23, 1976. Revision approved March 5, 1979. Revision approved May 6, 1980. Revision approved March 21, 1984.

Table of WAC Sections Affected

KEY TO TABLE

Symbols:

- AMD = Amendment of existing section
- NEW = New section not previously codified
- REP = Repeal of existing section
- READOPT = Readoption of existing section
- 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.

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173-218-020	NEW-P	84-02-070	196-08-085	AMD	84-04-027	197-10-480	REP	84-05-021
173-218-020	NEW	84-06-023	196-12-010	AMD	84-04-027	197-10-485	REP	84-05-021
173-218-030	NEW-P	84-02-070	196-12-020	AMD	84-04-027	197-10-490	REP	84-05-021
173-218-030	NEW	84-06-023	196-12-030	AMD	84-04-027	197-10-495	REP	84-05-021
173-218-040	NEW-P	84-02-070	196-12-050	AMD	84-04-027	197-10-500	REP	84-05-021
173-218-040	NEW	84-06-023	196-12-060	AMD	84-04-027	197-10-510	REP	84-05-021
173-218-050	NEW-P	84-02-070	196-12-085	AMD	84-04-027	197-10-520	REP	84-05-021
173-218-050	NEW	84-06-023	196-16-007	AMD	84-04-027	197-10-530	REP	84-05-021
173-218-060	NEW-P	84-02-070	196-16-010	AMD	84-04-027	197-10-535	REP	84-05-021
173-218-060	NEW	84-06-023	196-16-020	AMD	84-04-027	197-10-540	REP	84-05-021
173-218-070	NEW-P	84-02-070	196-16-031	AMD	84-04-027	197-10-545	REP	84-05-021
173-218-070	NEW	84-06-023	196-20-010	AMD	84-04-027	197-10-550	REP	84-05-021
173-218-080	NEW-P	84-02-070	196-20-030	AMD	84-04-027	197-10-570	REP	84-05-021
173-218-080	NEW	84-06-023	196-24-030	AMD	84-04-027	197-10-580	REP	84-05-021
173-218-090	NEW-P	84-02-070	196-24-040	AMD	84-04-027	197-10-600	REP	84-05-021
173-218-090	NEW	84-06-023	196-24-050	AMD	84-04-027	197-10-650	REP	84-05-021
173-218-100	NEW-P	84-02-070	196-24-080	AMD	84-04-027	197-10-652	REP	84-05-021
173-218-100	NEW	84-06-023	196-27-010	NEW	84-04-027	197-10-660	REP	84-05-021
173-218-110	NEW-P	84-02-070	196-27-020	NEW	84-04-027	197-10-690	REP	84-05-021
173-218-110	NEW	84-06-023	197-10-010	REP	84-05-021	197-10-695	REP	84-05-021
173-220-030	AMD-E	84-07-058	197-10-020	REP	84-05-021	197-10-700	REP	84-05-021
173-220-130	AMD-E	84-07-058	197-10-025	REP	84-05-021	197-10-710	REP	84-05-021
173-220-150	AMD-E	84-07-058	197-10-030	REP	84-05-021	197-10-800	REP	84-05-021
173-220-210	AMD-E	84-07-058	197-10-040	REP	84-05-021	197-10-805	REP	84-05-021
173-220-220	AMD-E	84-07-058	197-10-050	REP	84-05-021	197-10-810	REP	84-05-021
173-303	AMD-C	84-04-075	197-10-055	REP	84-05-021	197-10-820	REP	84-05-021
173-303	AMD-C	84-07-057	197-10-060	REP	84-05-021	197-10-825	REP	84-05-021
173-305-010	NEW	84-05-012	197-10-100	REP	84-05-021	197-10-831	REP	84-05-021
173-305-015	NEW	84-05-012	197-10-150	REP	84-05-021	197-10-840	REP	84-05-021
173-305-020	NEW	84-05-012	197-10-160	REP	84-05-021	197-10-860	REP	84-05-021
173-305-030	NEW	84-05-012	197-10-170	REP	84-05-021	197-10-900	REP	84-05-021
173-305-040	NEW	84-05-012	197-10-175	REP	84-05-021	197-10-910	REP	84-05-021
173-305-050	NEW	84-05-012	197-10-177	REP	84-05-021	197-11-010	NEW	84-05-020
173-305-060	NEW	84-05-012	197-10-180	REP	84-05-021	197-11-020	NEW	84-05-020

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220-55-130	AMD	84-05-046	220-95-026	AMD-P	84-03-059	251-18-012	NEW-P	84-06-065
220-56-105	AMD-P	84-03-060	220-95-026	AMD	84-05-046	251-18-015	NEW-P	84-06-065
220-56-115	AMD-P	84-03-060	220-110-010	AMD	84-04-047	251-18-020	AMD-P	84-06-065
220-56-125	AMD-P	84-03-060	220-110-020	AMD	84-04-047	251-18-025	REP-P	84-06-065
220-56-132	NEW-P	84-03-060	220-110-030	AMD	84-04-047	251-18-030	REP-P	84-06-065
220-56-180	AMD-P	84-03-060	220-110-110	AMD	84-04-047	251-18-050	AMD-P	84-06-065
220-56-18000L	NEW-E	84-07-029	220-110-190	AMD	84-04-047	251-18-060	AMD-P	84-06-065
220-56-190	AMD-P	84-03-060	220-110-250	AMD	84-04-047	251-18-070	AMD-P	84-06-065
220-56-196	AMD-P	84-03-060	220-110-260	AMD	84-04-047	251-18-080	REP-P	84-06-065
220-56-198	AMD-P	84-03-060	220-110-300	AMD	84-04-047	251-18-100	REP-P	84-06-065
220-56-201	NEW-P	84-03-060	220-110-340	AMD	84-04-047	251-18-110	AMD-P	84-06-065
220-56-235	AMD-P	84-03-060	220-110-350	AMD	84-04-047	251-18-115	REP-P	84-06-065
220-56-240	AMD-P	84-03-060	232-12-025	NEW	84-04-015	251-18-120	AMD-P	84-06-065
220-56-250	AMD-P	84-03-060	232-12-04502	NEW-E	84-02-064	251-18-130	AMD-P	84-06-065
220-56-295	AMD-P	84-03-060	232-12-064	AMD-P	84-05-057	251-18-140	AMD-P	84-06-065
220-56-310	AMD-P	84-03-060	232-12-066	NEW-P	84-05-058	251-18-145	NEW-P	84-06-065
220-56-320	AMD-P	84-03-060	232-12-157	AMD	84-03-021	251-18-150	REP-P	84-06-065
220-56-325	AMD-P	84-03-060	232-14-010	AMD	84-05-003	251-18-155	REP-P	84-06-065
220-56-330	AMD-P	84-03-060	232-28-50601	NEW-E	84-05-061	251-18-160	AMD-P	84-06-065
220-56-380	AMD-P	84-03-060	232-28-60601	NEW-E	84-02-062	251-18-170	REP-P	84-06-065
220-57-120	AMD-P	84-03-060	232-28-60602	NEW-E	84-04-001	251-18-175	REP-P	84-06-065
220-57-130	AMD-P	84-03-060	232-28-60603	NEW-E	84-04-002	251-18-180	AMD-P	84-04-070
220-57-135	AMD-P	84-03-060	232-28-60604	NEW-E	84-05-002	251-18-180	AMD-E	84-04-071
220-57-140	AMD-P	84-05-042	232-28-60605	NEW-E	84-06-005	251-18-180	AMD-P	84-06-065
220-57-150	AMD-P	84-03-060	232-28-60606	NEW-E	84-07-031	251-18-181	REP-P	84-06-065
220-57-155	AMD-P	84-03-060	232-28-60607	NEW-E	84-07-031	251-18-190	AMD-P	84-06-065
220-57-160	AMD-P	84-03-060	232-28-705	REP	84-05-060	251-18-200	AMD-P	84-06-065
220-57-16000D	NEW-E	84-07-022	232-28-706	NEW	84-05-060	251-18-230	REP-P	84-06-065
220-57-175	AMD-P	84-03-060	232-28-805	REP-P	84-05-059	251-18-240	AMD-P	84-06-065
220-57-200	AMD-P	84-03-060	232-28-806	NEW-P	84-05-059	251-18-260	AMD-P	84-06-065
220-57-230	AMD-P	84-03-060	232-32-155	NEW-E	84-02-063	251-18-265	AMD-P	84-06-065
220-57-270	AMD-P	84-03-060	232-32-157	NEW-E	84-02-065	251-18-270	AMD-P	84-06-065
220-57-280	AMD-P	84-03-060	232-32-158	NEW-E	84-03-023	251-18-315	NEW-P	84-02-067
220-57-285	AMD-P	84-03-060	232-32-159	NEW-E	84-03-029	251-18-315	NEW-C	84-06-004
220-57-295	AMD-P	84-03-060	232-32-160	NEW-E	84-03-022	251-18-320	AMD-P	84-04-070
220-57-300	AMD-P	84-03-060	232-32-161	NEW-E	84-03-030	251-18-320	AMD-E	84-04-071
220-57-319	AMD-P	84-03-060	232-32-162	NEW-E	84-03-031	251-18-330	AMD-P	84-02-067
220-57-335	AMD-P	84-03-060	232-32-163	NEW-E	84-05-001	251-18-330	AMD-P	84-04-070
220-57-340	AMD-P	84-03-060	232-32-164	NEW-E	84-07-044	251-18-330	AMD-E	84-04-071
220-57-365	AMD-P	84-03-060	236-47-001	NEW-P	84-07-024	251-18-340	AMD-P	84-04-070
220-57-385	AMD-P	84-03-060	236-47-002	NEW-P	84-07-024	251-18-340	AMD-E	84-04-071
220-57-430	AMD-P	84-03-060	236-47-003	NEW-P	84-07-024	251-18-350	AMD-P	84-02-067
220-57-440	AMD-P	84-03-060	236-47-004	NEW-P	84-07-024	251-18-350	AMD-C	84-06-004
220-57-460	AMD-P	84-03-060	236-47-005	NEW-P	84-07-024	251-18-355	NEW-P	84-02-067
220-57-473	AMD-P	84-03-060	236-47-006	NEW-P	84-07-024	251-18-355	NEW-C	84-06-004
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220-57-520	AMD-P	84-03-060	236-47-008	NEW-P	84-07-024	251-18-361	NEW-C	84-06-004
220-57-525	AMD-P	84-03-060	236-47-009	NEW-P	84-07-024	251-22-070	AMD-P	84-04-070
220-57A-010	AMD-P	84-03-060	236-47-010	NEW-P	84-07-024	251-22-070	AMD-E	84-04-071
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220-57A-040	AMD-P	84-03-060	236-47-012	NEW-P	84-07-024	260-70-010	AMD	84-06-061
220-57A-065	AMD-P	84-03-060	236-47-013	NEW-P	84-07-024	260-70-021	AMD-P	84-04-061
220-57A-080	AMD-P	84-03-060	236-47-014	NEW-P	84-07-024	260-70-021	AMD	84-06-061
220-57A-082	AMD-P	84-03-060	236-47-015	NEW-P	84-07-024	260-70-025	NEW-P	84-04-061
220-57A-112	AMD-P	84-03-060	236-47-016	NEW-P	84-07-024	260-70-025	NEW	84-06-061
220-57A-120	AMD-P	84-03-060	236-47-017	NEW-P	84-07-024	260-70-026	NEW-P	84-04-061
220-57A-152	AMD-P	84-03-060	248-19-220	AMD-P	84-04-026	260-70-026	NEW	84-06-061
220-57A-185	AMD-P	84-03-060	248-19-220	AMD-E	84-04-057	260-70-027	NEW-P	84-04-061
220-57A-190	AMD-P	84-03-060	248-19-220	AMD	84-07-014	260-70-027	NEW	84-06-061
220-69-230	AMD-P	84-04-091	248-19-230	AMD-P	84-04-026	260-70-028	NEW-P	84-04-061
220-69-237	AMD-P	84-03-060	248-19-230	AMD-E	84-04-057	260-70-028	NEW	84-06-061
220-69-247	NEW-P	84-03-060	248-19-230	AMD	84-07-014	260-70-029	NEW-P	84-04-061
220-69-250	AMD-P	84-04-091	251-04-020	AMD-P	84-02-067	260-70-029	NEW	84-06-061
220-74-022	AMD-P	84-03-059	251-04-020	AMD-P	84-04-070	260-70-031	NEW-P	84-04-061
220-74-022	AMD	84-05-046	251-04-020	AMD-E	84-04-071	260-70-031	NEW	84-06-061
220-76-010	AMD-P	84-03-059	251-04-020	AMD-C	84-06-004	260-70-032	NEW-P	84-04-061
220-76-010	AMD	84-05-046	251-04-020	AMD	84-06-035	260-70-032	NEW	84-06-061
220-85-015	AMD-P	84-03-059	251-04-020	AMD-P	84-06-065	260-70-090	AMD-P	84-04-061
220-85-015	AMD	84-05-046	251-04-040	AMD-P	84-02-067	260-70-090	AMD	84-06-061
220-85-050	AMD-P	84-03-059	251-04-040	AMD-C	84-06-004	260-70-100	AMD-P	84-04-061
220-85-050	AMD	84-05-046	251-10-045	AMD-P	84-04-070	260-70-100	AMD	84-06-061
220-85-070	AMD-P	84-03-059	251-10-045	AMD-E	84-04-071	262-01-010	NEW	84-04-042
220-85-070	AMD	84-05-046	251-10-055	AMD-P	84-04-070	262-01-020	NEW	84-04-042
220-85-110	AMD-P	84-03-059	251-10-055	AMD-E	84-04-071	262-01-030	NEW	84-04-042
220-85-110	AMD	84-05-046	251-10-112	NEW-P	84-06-065	262-01-040	NEW	84-04-042
220-95-021	AMD-P	84-03-059	251-18-010	AMD-P	84-06-065	262-01-050	NEW	84-04-042

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263-12-115	AMD-C	84-04-058	296-17-917	AMD-P	84-02-060	296-93-100	NEW-P	84-05-032
263-12-115	AMD-E	84-04-059	296-17-917	AMD	84-06-024	296-93-110	NEW-P	84-05-032
275-27-800	NEW-P	84-04-009	296-17-918	NEW-P	84-02-060	296-93-120	NEW-P	84-05-032
275-27-800	NEW-E	84-04-010	296-17-918	NEW	84-06-018	296-93-130	NEW-P	84-05-032
275-27-800	NEW	84-07-018	296-17-919	AMD-P	84-02-060	296-93-140	NEW-P	84-05-032
275-27-810	NEW-P	84-04-009	296-17-919	AMD	84-06-024	296-93-150	NEW-P	84-05-032
275-27-810	NEW-E	84-04-010	296-17-91901	AMD-P	84-02-060	296-93-160	NEW-P	84-05-032
275-27-810	NEW	84-07-018	296-17-91901	AMD	84-06-024	296-93-170	NEW-P	84-05-032
275-27-820	NEW-P	84-04-009	296-17-91902	AMD-P	84-02-060	296-93-180	NEW-P	84-05-032
275-27-820	NEW-E	84-04-010	296-17-91902	AMD	84-06-024	296-93-190	NEW-P	84-05-032
275-27-820	NEW	84-07-018	296-19-010	REP-P	84-02-059	296-93-200	NEW-P	84-05-032
275-31-005	NEW	84-03-054	296-19-010	REP	84-06-018	296-93-210	NEW-P	84-05-032
275-31-010	NEW	84-03-054	296-46-110	AMD-P	84-07-010	296-93-220	NEW-P	84-05-032
275-31-020	NEW	84-03-054	296-46-120	REP-P	84-07-010	296-93-230	NEW-P	84-05-032
275-31-030	NEW	84-03-054	296-46-130	AMD-P	84-07-010	296-93-240	NEW-P	84-05-032
275-31-040	NEW	84-03-054	296-46-140	AMD-P	84-07-010	296-93-250	NEW-P	84-05-032
275-31-050	NEW	84-03-054	296-46-150	AMD-P	84-07-010	296-93-260	NEW-P	84-05-032
275-31-070	NEW	84-03-054	296-46-160	AMD-P	84-07-010	296-93-270	NEW-P	84-05-032
275-31-080	NEW	84-03-054	296-46-170	REP-P	84-07-010	296-93-280	NEW-P	84-05-032
275-31-090	NEW	84-03-054	296-46-180	AMD-P	84-07-010	296-93-290	NEW-P	84-05-032
275-33-010	NEW-E	84-06-016	296-46-190	REP-P	84-07-010	296-93-300	NEW-P	84-05-032
275-33-010	NEW-P	84-06-025	296-46-200	AMD-P	84-07-010	296-93-320	NEW-P	84-05-032
275-33-020	NEW-E	84-06-016	296-46-210	REP-P	84-07-010	296-93-330	NEW-P	84-05-032
275-33-020	NEW-P	84-06-025	296-46-220	AMD-P	84-07-010	296-104-200	AMD-P	84-06-010
275-33-030	NEW-E	84-06-016	296-46-230	REP-P	84-07-010	296-104-700	AMD-P	84-06-010
275-33-030	NEW-P	84-06-025	296-46-240	AMD-P	84-07-010	296-116-070	AMD-P	84-07-027
275-33-040	NEW-E	84-06-016	296-46-242	REP-P	84-07-010	296-116-300	AMD	84-04-006
275-33-040	NEW-P	84-06-025	296-46-244	REP-P	84-07-010	296-116-300	AMD-E	84-04-007
275-33-050	NEW-E	84-06-016	296-46-270	REP-P	84-07-010	296-116-330	REP-P	84-07-028
275-33-050	NEW-P	84-06-025	296-46-280	REP-P	84-07-010	296-200-300	NEW-E	84-03-003
275-33-060	NEW-E	84-06-016	296-46-290	REP-P	84-07-010	296-200-300	NEW-P	84-04-072
275-33-060	NEW-P	84-06-025	296-46-300	REP-P	84-07-010	296-200-300	NEW-C	84-07-021
275-38-600	AMD-P	84-05-056	296-46-335	REP-P	84-07-010	296-200-310	NEW-E	84-03-003
275-38-730	AMD-P	84-04-056	296-46-336	NEW-P	84-07-010	296-200-310	NEW-P	84-04-072
275-55-020	AMD	84-03-035	296-46-350	AMD-P	84-07-010	296-200-310	NEW-C	84-07-021
275-55-161	AMD	84-03-035	296-46-355	REP-P	84-07-010	296-200-320	NEW-E	84-03-003
275-55-263	AMD	84-03-035	296-46-360	AMD-P	84-07-010	296-200-320	NEW-P	84-04-072
275-55-271	AMD	84-03-035	296-46-370	AMD-P	84-07-010	296-200-320	NEW-C	84-07-021
275-55-281	AMD	84-03-035	296-46-380	REP-P	84-07-010	296-400-300	NEW-P	84-04-072
275-55-291	AMD	84-03-035	296-46-390	REP-P	84-07-010	296-400-300	NEW-C	84-07-021
275-55-293	AMD	84-03-035	296-46-420	AMD-P	84-07-010	304-12-015	REP-P	84-04-089
275-55-297	AMD	84-03-035	296-46-424	REP-P	84-07-010	304-12-015	REP	84-07-020
275-55-301	AMD	84-03-035	296-46-426	REP-P	84-07-010	304-12-020	NEW-P	84-04-089
275-55-331	AMD	84-03-035	296-46-480	AMD-P	84-07-010	304-12-020	NEW	84-07-020
275-55-371	AMD	84-03-035	296-46-490	AMD-P	84-07-010	304-12-025	NEW-P	84-04-089
284-44-020	REP-P	84-04-032	296-46-495	REP-P	84-07-010	304-12-025	NEW	84-07-020
284-44-400	NEW-P	84-04-032	296-46-500	REP-P	84-07-010	304-12-125	AMD-P	84-04-089
284-44-410	NEW-P	84-04-032	296-46-501	REP-P	84-07-010	304-12-125	AMD	84-07-020
284-46-010	NEW-P	84-04-033	296-46-535	REP-P	84-07-010	304-25-040	AMD-P	84-04-089
284-46-020	NEW-P	84-04-033	296-46-540	REP-P	84-07-010	304-25-040	AMD	84-07-020
296-04-500	REP	84-04-024	296-46-545	REP-P	84-07-010	304-25-090	REP-P	84-04-089
296-04-501	REP	84-04-024	296-46-550	REP-P	84-07-010	304-25-090	REP	84-07-020
296-04-502	REP	84-04-024	296-46-555	REP-P	84-07-010	304-25-100	REP-P	84-04-089
296-04-503	REP	84-04-024	296-46-560	REP-P	84-07-010	304-25-100	REP	84-07-020
296-04-504	REP	84-04-024	296-46-565	REP-P	84-07-010	308-12-031	AMD	84-04-028
296-04-505	REP	84-04-024	296-46-590	REP-P	84-07-010	308-12-050	AMD	84-04-028
296-04-506	REP	84-04-024	296-46-59005	REP-P	84-07-010	308-12-110	AMD	84-04-028
296-14-010	AMD-P	84-02-059	296-46-59010	REP-P	84-07-010	308-25-020	REP	84-04-088
296-14-010	AMD	84-06-018	296-46-900	REP-P	84-07-010	308-25-025	NEW	84-04-088
296-15-02601	AMD-P	84-02-078	296-46-905	REP-P	84-07-010	308-25-025	AMD-P	84-07-049
296-15-02601	AMD	84-06-031	296-81-007	AMD-C	84-03-008	308-25-030	AMD	84-04-088
296-15-21001	REP-P	84-02-078	296-81-007	AMD	84-05-005	308-25-040	REP	84-04-088
296-15-21001	REP	84-06-031	296-81-340	AMD-C	84-03-008	308-25-070	AMD	84-04-088
296-17-35101	NEW-P	84-02-059	296-81-340	AMD	84-05-005	308-26-015	AMD-P	84-04-085
296-17-35101	NEW	84-06-018	296-81-360	AMD-C	84-03-008	308-26-017	AMD-P	84-04-085
296-17-905	AMD-P	84-02-060	296-81-360	AMD	84-05-005	308-31-015	NEW	84-02-077
296-17-905	AMD	84-06-024	296-81-991	NEW-C	84-03-008	308-31-020	AMD	84-02-077
296-17-910	AMD-P	84-02-060	296-81-991	NEW	84-05-005	308-31-100	NEW	84-02-077
296-17-910	AMD	84-06-024	296-93-010	NEW-P	84-05-032	308-31-110	NEW	84-02-077
296-17-911	AMD-P	84-02-060	296-93-020	NEW-P	84-05-032	308-31-120	NEW	84-02-077
296-17-911	AMD	84-06-024	296-93-030	NEW-P	84-05-032	308-31-500	NEW	84-02-077
296-17-913	AMD-P	84-02-060	296-93-040	NEW-P	84-05-032	308-31-510	NEW	84-02-077
296-17-913	AMD	84-06-024	296-93-050	NEW-P	84-05-032	308-31-520	NEW	84-02-077
296-17-914	AMD-P	84-02-060	296-93-060	NEW-P	84-05-032	308-31-530	NEW	84-02-077
296-17-914	AMD	84-06-024	296-93-070	NEW-P	84-05-032	308-31-540	NEW	84-02-077
296-17-916	AMD-P	84-02-060	296-93-080	NEW-P	84-05-032	308-31-550	NEW	84-02-077

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WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
308-31-560	NEW	84-02-077	315-30-090	NEW	84-05-008	316-02-510	NEW-P	84-04-081
308-31-570	NEW	84-02-077	316-02-001	NEW-P	84-04-081	316-02-510	NEW	84-07-037
308-37-150	NEW-P	84-02-076	316-02-001	NEW	84-07-037	316-02-600	NEW-P	84-04-081
308-37-150	NEW	84-05-070	316-02-003	NEW-P	84-04-081	316-02-600	NEW	84-07-037
308-40-102	AMD-P	84-04-087	316-02-003	NEW	84-07-037	316-02-610	NEW-P	84-04-081
308-40-102	AMD	84-07-050	316-02-007	NEW-P	84-04-081	316-02-610	NEW	84-07-037
308-40-104	AMD-P	84-07-048	316-02-007	NEW	84-07-037	316-02-800	NEW-P	84-04-081
308-42-020	REP	84-03-055	316-02-010	NEW-P	84-04-081	316-02-800	NEW	84-07-037
308-42-030	REP	84-03-055	316-02-010	NEW	84-07-037	316-02-810	NEW-P	84-04-081
308-42-035	REP	84-03-055	316-02-020	NEW-P	84-04-081	316-02-810	NEW	84-07-037
308-42-040	AMD	84-03-055	316-02-020	NEW	84-07-037	316-02-820	NEW-P	84-04-081
308-42-050	REP	84-03-055	316-02-030	NEW-P	84-04-081	316-02-820	NEW	84-07-037
308-42-055	REP	84-03-055	316-02-030	NEW	84-07-037	316-02-900	NEW-P	84-04-081
308-42-070	AMD	84-03-055	316-02-040	NEW-P	84-04-081	316-02-900	NEW	84-07-037
308-42-120	AMD	84-03-055	316-02-040	NEW	84-07-037	316-02-910	NEW-P	84-04-081
308-50-010	AMD-E	84-03-018	316-02-100	NEW-P	84-04-081	316-02-910	NEW	84-07-037
308-50-010	AMD-P	84-04-048	316-02-100	NEW	84-07-037	316-02-920	NEW-P	84-04-081
308-50-020	AMD-E	84-03-018	316-02-103	NEW-P	84-04-081	316-02-920	NEW	84-07-037
308-50-020	AMD-P	84-04-048	316-02-103	NEW	84-07-037	316-02-930	NEW-P	84-04-081
308-50-050	REP-P	84-04-048	316-02-105	NEW-P	84-04-081	316-02-930	NEW	84-07-037
308-50-090	AMD-E	84-03-018	316-02-105	NEW	84-07-037	316-07-010	REP-P	84-04-081
308-50-090	AMD-P	84-04-048	316-02-110	NEW-P	84-04-081	316-07-010	REP	84-07-038
308-50-100	AMD-P	84-04-048	316-02-110	NEW	84-07-037	316-07-020	REP-P	84-04-081
308-50-110	AMD-P	84-04-048	316-02-120	NEW-P	84-04-081	316-07-020	REP	84-07-038
308-50-120	AMD-P	84-04-048	316-02-120	NEW	84-07-037	316-07-030	REP-P	84-04-081
308-53-030	AMD-P	84-05-069	316-02-130	NEW-P	84-04-081	316-07-030	REP	84-07-038
308-53-085	AMD-P	84-05-069	316-02-130	NEW	84-07-037	316-07-040	REP-P	84-04-081
308-53-120	AMD-P	84-05-069	316-02-140	NEW-P	84-04-081	316-07-040	REP	84-07-038
308-53-190	REP-P	84-05-069	316-02-140	NEW	84-07-037	316-07-050	REP-P	84-04-081
308-54-140	AMD-P	84-04-086	316-02-150	NEW-P	84-04-081	316-07-050	REP	84-07-038
308-54-140	AMD	84-07-051	316-02-150	NEW	84-07-037	316-07-060	REP-P	84-04-081
308-54-150	AMD-P	84-04-086	316-02-160	NEW-P	84-04-081	316-07-060	REP	84-07-038
308-54-150	AMD	84-07-051	316-02-160	NEW	84-07-037	316-07-070	REP-P	84-04-081
308-78-010	AMD-P	84-06-066	316-02-170	NEW-P	84-04-081	316-07-070	REP	84-07-038
308-78-040	AMD-P	84-06-066	316-02-170	NEW	84-07-037	316-07-080	REP-P	84-04-081
308-78-045	AMD-P	84-06-066	316-02-180	NEW-P	84-04-081	316-07-080	REP	84-07-038
308-78-050	AMD-P	84-06-066	316-02-180	NEW	84-07-037	316-07-090	REP-P	84-04-081
308-78-070	AMD-P	84-06-066	316-02-200	NEW-P	84-04-081	316-07-090	REP	84-07-038
308-93-650	NEW-P	84-06-056	316-02-200	NEW	84-07-037	316-07-100	REP-P	84-04-081
308-138-200	AMD	84-05-011	316-02-210	NEW-P	84-04-081	316-07-100	REP	84-07-038
308-138A-025	AMD	84-05-011	316-02-210	NEW	84-07-037	316-07-110	REP-P	84-04-081
308-138B-120	REP	84-05-011	316-02-220	NEW-P	84-04-081	316-07-110	REP	84-07-038
308-138B-165	NEW	84-05-011	316-02-220	NEW	84-07-037	316-07-120	REP-P	84-04-081
308-138B-170	AMD	84-05-011	316-02-230	NEW-P	84-04-081	316-07-120	REP	84-07-038
314-16-110	AMD	84-02-066	316-02-230	NEW	84-07-037	316-07-130	REP-P	84-04-081
314-16-200	AMD-W	84-03-019	316-02-300	NEW-P	84-04-081	316-07-130	REP	84-07-038
314-16-200	AMD-P	84-07-052	316-02-300	NEW	84-07-037	316-07-140	REP-P	84-04-081
314-16-205	NEW-P	84-06-063	316-02-310	NEW-P	84-04-081	316-07-140	REP	84-07-038
314-18-040	AMD-P	84-06-064	316-02-310	NEW	84-07-037	316-07-150	REP-P	84-04-081
314-20-010	AMD-P	84-06-062	316-02-320	NEW-P	84-04-081	316-07-150	REP	84-07-038
314-24-110	AMD-P	84-06-062	316-02-320	NEW	84-07-037	316-07-160	REP-P	84-04-081
315-04-070	AMD-E	84-06-045	316-02-330	NEW-P	84-04-081	316-07-160	REP	84-07-038
315-04-120	AMD-P	84-05-050	316-02-330	NEW	84-07-037	316-07-170	REP-P	84-04-081
315-04-120	AMD-E	84-06-045	316-02-340	NEW-P	84-04-081	316-07-170	REP	84-07-038
315-04-180	AMD	84-05-008	316-02-340	NEW	84-07-037	316-07-180	REP-P	84-04-081
315-04-132	NEW-E	84-06-045	316-02-350	NEW-P	84-04-081	316-07-180	REP	84-07-038
315-04-133	NEW-E	84-06-045	316-02-350	NEW	84-07-037	316-07-190	REP-P	84-04-081
315-06-120	AMD-P	84-05-050	316-02-360	NEW-P	84-04-081	316-07-190	REP	84-07-038
315-06-130	AMD	84-05-008	316-02-360	NEW	84-07-037	316-07-200	REP-P	84-04-081
315-10-020	AMD	84-05-008	316-02-370	NEW-P	84-04-081	316-07-200	REP	84-07-038
315-10-030	AMD	84-05-008	316-02-370	NEW	84-07-037	316-07-210	REP-P	84-04-081
315-10-060	AMD	84-05-008	316-02-400	NEW-P	84-04-081	316-07-210	REP	84-07-038
315-11-071	AMD	84-05-008	316-02-400	NEW	84-07-037	316-07-220	REP-P	84-04-081
315-11-081	AMD	84-05-008	316-02-410	NEW-P	84-04-081	316-07-220	REP	84-07-038
315-11-101	AMD-E	84-03-026	316-02-410	NEW	84-07-037	316-07-230	REP-P	84-04-081
315-11-101	AMD-P	84-05-051	316-02-420	NEW-P	84-04-081	316-07-230	REP	84-07-038
315-11-110	NEW-P	84-05-052	316-02-420	NEW	84-07-037	316-07-240	REP-P	84-04-081
315-11-110	NEW-E	84-05-053	316-02-450	NEW-P	84-04-081	316-07-240	REP	84-07-038
315-11-111	NEW-P	84-05-052	316-02-450	NEW	84-07-037	316-07-250	REP-P	84-04-081
315-11-111	NEW-E	84-05-053	316-02-460	NEW-P	84-04-081	316-07-250	REP	84-07-038
315-11-112	NEW-P	84-05-052	316-02-460	NEW	84-07-037	316-07-260	REP-P	84-04-081
315-11-112	NEW-E	84-05-053	316-02-470	NEW-P	84-04-081	316-07-260	REP	84-07-038
315-11-120	NEW-P	84-07-053	316-02-470	NEW	84-07-037	316-07-270	REP-P	84-04-081
315-11-121	NEW-P	84-07-053	316-02-490	NEW-P	84-04-081	316-07-270	REP	84-07-038
315-11-122	NEW-P	84-07-053	316-02-490	NEW	84-07-037	316-07-280	REP-P	84-04-081
315-12-030	AMD	84-05-008	316-02-500	NEW-P	84-04-081	316-07-280	REP	84-07-038
315-30-080	NEW	84-05-008	316-02-500	NEW	84-07-037	316-07-290	REP-P	84-04-081

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
316-75-050	NEW-P	84-04-081	326-08-090	NEW-E	84-05-034	352-60-020	NEW-E	84-07-030
316-75-050	NEW	84-07-037	326-08-100	NEW-P	84-05-033	352-60-030	NEW-E	84-07-030
316-75-070	NEW-P	84-04-081	326-08-100	NEW-E	84-05-034	352-60-040	NEW-E	84-07-030
316-75-070	NEW	84-07-037	326-08-110	NEW-P	84-05-033	352-60-050	NEW-E	84-07-030
316-75-090	NEW-P	84-04-081	326-08-110	NEW-E	84-05-034	352-60-060	NEW-E	84-07-030
316-75-090	NEW	84-07-037	326-08-120	NEW-P	84-05-033	352-60-070	NEW-E	84-07-030
316-75-110	NEW-P	84-04-081	326-08-120	NEW-E	84-05-034	352-60-080	NEW-E	84-07-030
316-75-110	NEW	84-07-037	326-08-130	NEW-P	84-05-033	352-60-090	NEW-E	84-07-030
316-75-130	NEW-P	84-04-081	326-08-130	NEW-E	84-05-034	352-60-100	NEW-E	84-07-030
316-75-130	NEW	84-07-037	326-20-050	AMD-P	84-05-033	352-60-110	NEW-E	84-07-030
316-75-150	NEW-P	84-04-081	326-20-050	AMD-E	84-05-034	356-06-010	AMD-E	84-04-021
316-75-150	NEW	84-07-037	326-20-060	AMD-P	84-05-033	356-06-010	AMD-P	84-04-073
316-75-170	NEW-P	84-04-081	326-20-060	AMD-E	84-05-034	356-06-010	AMD-P	84-06-049
316-75-170	NEW	84-07-037	326-20-180	AMD-P	84-05-033	356-06-010	AMD-C	84-07-003
316-75-190	NEW-P	84-04-081	326-20-180	AMD-E	84-05-034	356-06-050	AMD-P	84-06-049
316-75-190	NEW	84-07-037	326-20-210	AMD-P	84-05-033	356-06-055	AMD-P	84-06-049
316-75-210	NEW-P	84-04-081	326-20-210	AMD-E	84-05-034	356-07-020	AMD	84-04-022
316-75-210	NEW	84-07-037	326-30-010	NEW	84-03-005	356-15-060	AMD-E	84-04-020
316-75-230	NEW-P	84-04-081	326-30-020	NEW	84-03-005	356-15-060	AMD	84-05-024
316-75-230	NEW	84-07-037	326-30-030	NEW	84-03-005	356-18-050	AMD	84-04-022
316-75-250	NEW-P	84-04-081	326-30-035	NEW	84-03-005	356-18-070	AMD-C	84-04-019
316-75-250	NEW	84-07-037	326-30-040	NEW	84-03-005	356-18-070	AMD-C	84-07-003
316-75-270	NEW-P	84-04-081	326-30-050	NEW	84-03-005	356-18-090	AMD-P	84-04-073
316-75-270	NEW	84-07-037	326-30-060	NEW	84-03-005	356-18-090	AMD-C	84-07-003
316-75-290	NEW-P	84-04-081	326-30-070	NEW	84-03-005	356-26-030	AMD-P	84-06-049
316-75-290	NEW	84-07-037	326-30-080	NEW	84-03-005	356-26-070	AMD-P	84-06-049
316-75-310	NEW-P	84-04-081	326-30-090	NEW	84-03-005	356-30-065	NEW-C	84-04-019
316-75-310	NEW	84-07-037	326-30-100	NEW	84-03-005	356-30-065	NEW-C	84-07-003
326-02-030	AMD-P	84-05-033	326-30-100	AMD-P	84-03-048	356-30-080	AMD-P	84-04-073
326-02-030	AMD-E	84-05-034	326-30-100	AMD-E	84-03-049	356-30-080	AMD-C	84-07-003
326-06-010	NEW-P	84-05-033	326-30-100	AMD-P	84-05-033	356-30-130	AMD-E	84-04-021
326-06-010	NEW-E	84-05-034	326-30-100	AMD-E	84-05-034	356-30-130	AMD-P	84-04-073
326-06-020	NEW-P	84-05-033	326-30-100	AMD	84-06-017	356-30-130	AMD-C	84-07-003
326-06-020	NEW-E	84-05-034	326-30-110	NEW	84-03-005	356-30-230	AMD-P	84-06-049
326-06-030	NEW-P	84-05-033	326-40	NEW-C	84-03-002	356-30-260	AMD-P	84-06-048
326-06-030	NEW-E	84-05-034	326-40-010	NEW-E	84-05-034	356-30-305	AMD-P	84-06-049
326-06-040	NEW-P	84-05-033	326-40-010	NEW	84-05-034	356-30-320	AMD-P	84-06-049
326-06-040	NEW-E	84-05-034	326-40-020	NEW-E	84-05-034	356-46-060	AMD	84-04-022
326-06-050	NEW-P	84-05-033	326-40-020	NEW	84-05-034	356-46-130	AMD-P	84-06-049
326-06-050	NEW-E	84-05-034	326-40-100	NEW-P	84-05-033	356-49-010	NEW-P	84-06-049
326-06-060	NEW-P	84-05-033	326-40-100	NEW-E	84-05-034	356-49-020	NEW-P	84-06-049
326-06-060	NEW-E	84-05-034	330-01	NEW-C	84-07-008	356-49-030	NEW-P	84-06-049
326-06-070	NEW-P	84-05-033	330-01-010	NEW-P	84-03-041	356-49-040	NEW-P	84-06-049
326-06-070	NEW-E	84-05-034	330-01-010	NEW-E	84-03-042	360-12-015	AMD	84-04-029
326-06-080	NEW-P	84-05-033	330-01-010	NEW	84-07-034	360-12-065	AMD	84-03-015
326-06-080	NEW-E	84-05-034	330-01-020	NEW-P	84-03-041	360-16-230	AMD	84-03-015
326-06-090	NEW-P	84-05-033	330-01-020	NEW-E	84-03-042	360-16-260	REP	84-03-016
326-06-090	NEW-E	84-05-034	330-01-020	NEW	84-07-034	360-18-020	AMD-E	84-03-017
326-06-100	NEW-P	84-05-033	330-01-030	NEW-P	84-03-041	360-18-020	AMD	84-04-030
326-06-100	NEW-E	84-05-034	330-01-030	NEW-E	84-03-042	360-19-010	NEW	84-03-016
326-06-110	NEW-P	84-05-033	330-01-030	NEW	84-07-034	360-19-020	NEW	84-03-016
326-06-110	NEW-E	84-05-034	330-01-040	NEW-P	84-03-041	360-19-030	NEW	84-03-016
326-06-120	NEW-P	84-05-033	330-01-040	NEW-E	84-03-042	360-19-040	NEW	84-03-016
326-06-120	NEW-E	84-05-034	330-01-040	NEW	84-07-034	360-19-050	NEW	84-03-016
326-06-130	NEW-P	84-05-033	330-01-050	NEW-P	84-03-041	360-19-060	NEW	84-03-016
326-06-130	NEW-E	84-05-034	330-01-050	NEW-E	84-03-042	360-19-070	NEW	84-03-016
326-06-140	NEW-P	84-05-033	330-01-050	NEW	84-07-034	360-19-080	NEW	84-03-016
326-06-140	NEW-E	84-05-034	330-01-060	NEW-P	84-03-041	360-19-090	NEW	84-03-016
326-06-160	NEW-P	84-05-033	330-01-060	NEW-E	84-03-042	360-19-100	NEW	84-03-016
326-06-160	NEW-E	84-05-034	330-01-060	NEW	84-07-034	360-36-400	NEW-P	84-06-067
326-08-010	NEW-P	84-05-033	330-01-070	NEW-P	84-03-041	360-36-410	NEW-P	84-06-067
326-08-010	NEW-E	84-05-034	330-01-070	NEW-E	84-03-042	360-36-420	NEW-P	84-06-067
326-08-020	NEW-P	84-05-033	330-01-070	NEW	84-07-034	360-36-430	NEW-P	84-06-067
326-08-020	NEW-E	84-05-034	330-01-080	NEW-P	84-03-041	360-36-440	NEW-P	84-06-067
326-08-030	NEW-P	84-05-033	330-01-080	NEW-E	84-03-042	360-36-450	NEW-P	84-06-067
326-08-030	NEW-E	84-05-034	330-01-080	NEW	84-07-034	388-08-00101	REP	84-05-040
326-08-040	NEW-P	84-05-033	330-01-090	NEW-P	84-03-041	388-08-002	REP	84-05-040
326-08-040	NEW-E	84-05-034	330-01-090	NEW-E	84-03-042	388-08-00201	NEW	84-05-040
326-08-050	NEW-P	84-05-033	330-01-090	NEW	84-07-034	388-08-00401	AMD	84-05-040
326-08-050	NEW-E	84-05-034	332-30-108	NEW-P	84-06-068	388-08-006	AMD	84-05-040
326-08-060	NEW-P	84-05-033	352-04-010	AMD	84-04-035	388-08-00601	AMD	84-05-040
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