

**FEBRUARY 3, 1988**

**OLYMPIA, WASHINGTON**

**ISSUE 88-03**



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## CITATION

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

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## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of February 1988 pursuant to RCW 19.52.020 is twelve percent (12%).

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

The maximum allowable retail installment contract service charge applicable for calendar year 1988 pursuant to RCW 63.14.130(1)(a) is twelve and one-quarter percent (12¼%).

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is twelve and one-half percent (12½%) for the first calendar quarter of 1988.

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# WASHINGTON STATE REGISTER

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## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

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

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

The three types of rule-making actions taken under the Administrative Procedure Act (chapter 34.04 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 are set forth in eight point type.
- (b) **Adopted rules** have been permanently adopted and are set forth in ten point type.
- (c) **Emergency rules** have been adopted on an emergency basis and are set forth in ten point oblique type.

### 3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.04.058 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 material is new material;
  - (ii) ~~deleted material is ((lined out and bracketed between double parentheses))~~;
- (b) Complete new sections are prefaced by the heading NEW SECTION;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

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

Material contained in the Register other than rule-making actions taken under the APA 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's office. 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's office 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's office for purposes of clarification or correction or to show the source or history of a document is enclosed in brackets [].

### 7. INDEX AND TABLES

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

1987 – 1988

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates <sup>1</sup>			Distribution Date	First Agency Action Date <sup>3</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS		
<i>For Inclusion in—</i>	<i>File no later than—</i>			<i>Count 20 days from—</i>	<i>For hearing/adoption on or after</i>
87-18	Aug 5	Aug 19	Sep 2	Sep 16	Oct 6
87-19	Aug 26	Sep 9	Sep 23	Oct 7	Oct 27
87-20	Sep 9	Sep 23	Oct 7	Oct 21	Nov 10
87-21	Sep 23	Oct 7	Oct 21	Nov 4	Nov 24
87-22	Oct 7	Oct 21	Nov 4	Nov 18	Dec 8
87-23	Oct 21	Nov 4	Nov 18	Dec 2	Dec 22
87-24	Nov 4	Nov 18	Dec 2	Dec 16	Jan 5, 1988
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88-01	Nov 25	Dec 9	Dec 23, 1987	Jan 6, 1988	Jan 26
88-02	Dec 9	Dec 23, 1987	Jan 6, 1988	Jan 20	Feb 9
88-03	Dec 23, 1987	Jan 6, 1988	Jan 20	Feb 3	Feb 23
88-04	Jan 6	Jan 20	Feb 3	Feb 17	Mar 8
88-05	Jan 20	Feb 3	Feb 17	Mar 2	Mar 22
88-06	Feb 3	Feb 17	Mar 2	Mar 16	Apr 5
88-07	Feb 24	Mar 9	Mar 23	Apr 6	Apr 26
88-08	Mar 9	Mar 23	Apr 6	Apr 20	May 10
88-09	Mar 23	Apr 6	Apr 20	May 4	May 24
88-10	Apr 6	Apr 20	May 4	May 18	Jun 7
88-11	Apr 20	May 4	May 18	Jun 1	Jun 21
88-12	May 4	May 18	Jun 1	Jun 15	Jul 5
88-13	May 25	Jun 8	Jun 22	Jul 6	Jul 26
88-14	Jun 8	Jun 22	Jul 6	Jul 20	Aug 9
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88-23	Oct 26	Nov 9	Nov 23	Dec 7	Dec 27
88-24	Nov 9	Nov 23	Dec 7	Dec 21	Jan 10, 1989

<sup>1</sup>All documents are due at the code reviser's office by 5:00 p.m. on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-12-035 or 1-13-035.

<sup>2</sup>A 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.

<sup>3</sup>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 88-03-001**  
**EMERGENCY RULES**  
**DEPARTMENT OF LICENSING**  
 [Order DLR-161—Filed January 7, 1988]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to WAC 308-90-030 through 308-90-050 [308-90-160].

I, Theresa Anna Aragon, Director, Department of Licensing, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are for implementation of SSB 5515, vessel dealer registration. This replaces DLR-145, filed October 9, 1987. A permanent rule hearing was held on December 29, 1987, however, this extension is necessary to extend through the effective date of these permanent rules.

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

This rule is promulgated pursuant to RCW 88.02.060 (WAC 308-90-040 and 308-90-080) and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Department of Licensing as authorized in RCW 88.02.100 (WAC 308-90-030, 308-90-060, 308-90-070, 308-90-090, 308-90-110, 308-90-120, 308-90-130, 308-90-140 and 308-90-150).

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

APPROVED AND ADOPTED January 6, 1988.

By Theresa Anna Aragon  
 Director

**AMENDATORY SECTION** (Amending Order 722 DOL, filed 7/1/83)

**WAC 308-90-030 DEFINITIONS.** (1) ~~(Words and terms used in these rules have the same meaning as each has under chapter 7, Laws of 1983 unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicate that they be given some other meaning.~~

(2) ~~"Person" includes every natural person, firm, co-partnership, corporation, association or organization.~~

(3) ~~"Branch location" means any place of business of a dealer which is physically and geographically separated from the principal place of business and has the appearance of being a separate business.)~~ "Firm" means a person, partnership, association or corporation engaged in the business of selling vessels at retail or wholesale in this state.

(2) "Display decal" means a vessel dealer identifier designed and produced by the department which is used by Washington registered vessel dealers.

(3) "Identification card" is a card that may be issued by a firm identifying a person as authorized to operate vessels for vessel dealer business.

(4) "Bona fide employee" is a person who works for the firm and appears on the firm's employment records.

(5) "Consignment" means an arrangement whereby a vessel dealer accepts entrustment of a vessel and agrees to sell the vessel on behalf of another.

(6) "Listing" means an arrangement whereby the seller will compensate the vessel dealer to obtain a willing purchaser for the seller's vessel.

(7) "Broker" means a vessel dealer who arranges the sale between the buyer and seller of a vessel and receives a form of compensation.

**AMENDATORY SECTION** (Amending Order 722 DOL, filed 7/1/83)

**WAC 308-90-040 DEALER REGISTRATION APPLICATION FORM.** (1) Any ~~(person)~~ firm making application for registration ~~(for)~~ as a vessel dealer under chapter ((7, Laws of 1983)) 88.02 RCW shall, on a form provided by the ((director)) department, provide the following information:

(a) ~~The name((; business name)) and ((principal place of)) business address of the ((applicant)) firm and a list of additional business addresses of the firm, if any.~~

(b) ~~The name ((and resident address)) of all owners of ten percent or more of the assets of the firm and title(s) of office held, if any.~~

(c) ~~((The name and resident address of the managing employee.~~

~~((d)) The ((applicant's form)) firm's business structure and place of organization.~~

~~((e) That the applicant's business may be lawfully carried on in accordance with all applicable building codes, zoning and other land use regulations.)~~ (d) The business registration number issued by the department of revenue.

**AMENDATORY SECTION** (Amending Order 722 DOL, filed 7/1/83)

**WAC 308-90-060 DISPLAY OF REGISTRATION.** (1) The registration of a dealer shall be prominently displayed, visible to the public at the address appearing on the registration.

(2) A copy of the vessel dealer registration shall be displayed as in subsection (1) of this section at all business locations of the firm.

**AMENDATORY SECTION** (Amending Order 722 DOL, filed 7/1/83)

**WAC 308-90-070 DEALER REGISTRATION NUMBERS.** (1) The ((director)) department shall assign a registration number for each ((applicant)) firm registered as a dealer. The registration number shall be consistent with the standard numbering system for vessels set forth in volume 33, part 174, of the Code of Federal Regulations. (Example: WN 7XXX DA)

~~((f))~~ (2) The dealer's registration number shall be displayed on all vessels owned by the dealer ((and

~~(a) Used for a business purpose of the dealer, but not for use on loaned vessels or vessels rented or leased on a regular commercial basis;~~

~~(b) Held as a demonstration or inventory vessel;~~

~~(c) Held for the purpose of testing or making repairs.~~

~~(2) Rented, loaned or leased vessels shall be registered separately and display separate registration numbers pursuant to chapter 7, Laws of 1983)) when being operated on the water pursuant to RCW 88.02.023.~~

~~(3) The vessel dealer shall display his/her registration number in three inch block numbers/letters on both sides of the forward one-half of the vessel. The registration number may be permanently fixed to the vessel or to a removable display fixture. The numbers/letters shall be displayed in a single line.~~

AMENDATORY SECTION (Amending Order 722 DOL, filed 7/1/83)

~~WAC 308-90-080 REGISTRATION FEE—RENEWAL. (1) Any ((person)) firm desiring to be a dealer must include with the application ((a)) the required registration fee ((of twenty-five dollars)). ((Every registration issued under the provisions of chapter 7, Laws of 1983 expires on the date one year from the date of issue which date will henceforth be the renewal date. An))~~

~~(2) Vessel dealers will reapply for a registration on or before the expiration of their registration.~~

~~(3) The annual registration renewal fee ((in the same amount)) must be paid on or before each renewal date. If an application for renewal is not received by the ((director)) department on or before the ((renewal date)) last day of the expiration month the registration is expired. The registration may be reinstated at any time within the next succeeding thirty days ((upon)) if renewal application and payment of the annual renewal fee then in default is received by the department. Registrations not renewed within thirty days of the renewal date then in default shall be cancelled. A new registration may be obtained by satisfying the procedures and qualifications for initial registration.~~

~~((2)) (4) If no department denial action is pending, the ((director)) department shall issue a vessel dealer registration and renewal decals depicting the expiration of the registration upon receipt of a dealer's renewal fee and renewal application. The dealer shall affix the decal as a prefix to the dealer registration number ((then in effect as displayed on the dealer's vessels)) on any vessels operated on the waters pursuant to RCW 88.02.023.~~

AMENDATORY SECTION (Amending Order 722 DOL, filed 7/1/83)

WAC 308-90-090 CHANGE OF BUSINESS LOCATION. The dealer shall notify the ((director)) department of any change of the firm's business location or mailing address prior to engaging in business at the new location. Notification shall be made by filing a change of address application on a form provided by the ((director)) department accompanied by the return of the registration issued to the former location or address. The vessel dealer will provide a list of all business locations

of the firm when changing the business address of the firm's office.

AMENDATORY SECTION (Amending Order 722 DOL, filed 7/1/83)

WAC 308-90-110 STATEMENT OF CHANGE IN BUSINESS STRUCTURE, OWNERSHIP INTEREST OR CONTROL. Any person, firm, association, corporation or trust registered as a dealer must, within ten days following any change in its business or ownership structure, file a statement describing with particularity the change effected in its business structure or the change in ownership interest. In addition, persons newly assuming executive or control functions, including but not limited to new corporate officers, directors, majority stockholders, managing partners, managing ((employee or)) trustees, must file within ten days of assuming such function.

NEW SECTION

WAC 308-90-120 TRUST ACCOUNT. (1) The dealer's separate trust account cannot accrue interest.

(2) Any fees assessed by the depository against the trust account shall not be paid from purchasers trust funds.

NEW SECTION

WAC 308-90-130 CONSIGNMENT. (1) All purchasers funds received, including deposits or payments or proceeds from the sale of trade-in vessels on a consignment sale, shall be placed in the vessel dealers trust account as required in section 11, chapter 149, Laws of 1987, and said funds shall remain in such trust account until the consignor's and the legal owner's interest, if any, have been fully satisfied.

(2) The sale of a consigned vessel by a vessel dealer is a retail sale and the dealer is required to transfer title as found in section 8, chapter 149, Laws of 1987.

NEW SECTION

WAC 308-90-140 LISTING. (1) All purchasers funds received, including deposits or payments or proceeds from the sale of trade-in vessels on a listing sale shall be placed in the vessel dealers trust account as required in section 11, chapter 149, Laws of 1987, and said funds shall remain in such trust account until the listed vessel sale is completed.

(2) At the time the sale closes and at vessel delivery the listing dealer shall pay any outstanding liens from trust funds in order to obtain title for transfer.

(3) The sale of a listed vessel by a vessel dealer is a retail sale and the vessel dealer is required to transfer title as provided in section 8, chapter 149, Laws of 1987.

NEW SECTION

WAC 308-90-150 TITLE TRANSFER. (1) The vessel dealer is required to make application for title in the purchaser's name within fifteen days following the sale of the vessel.

(2) *The vessel dealer or the dealer's authorized agent shall sign or type his/her firm name and vessel dealer number on the purchaser's application for title. If an authorized agent signs for the dealer the agent shall give their title.*

#### NEW SECTION

**WAC 308-90-160 BOND EXEMPTION.** (1) *Applicants or registered vessel dealers desiring to be exempt from the bonding requirement must provide a statement that they sell fifteen or fewer vessels per year having a retail value of not more than two thousand dollars each.*

(2) *Registered vessel dealers who have stated that they qualify for the exemption shall immediately file the required surety bond with the department at the time their sales exceed the statutory exemption number or value. Failure to file the bond will subject the vessel dealer to penalties prescribed in section 12, chapter 149, Laws of 1987.*

#### REPEALER

*The following sections of the Washington Administrative Code are repealed:*

**WAC 308-90-010 PROMULGATION AUTHORITY.**

**WAC 308-90-020 ORGANIZATION.**

**WAC 308-90-050 BRANCH LOCATION—SEPARATE REGISTRATION.**

#### **WSR 88-03-002**

##### **NOTICE OF PUBLIC MEETINGS TRANSPORTATION COMMISSION**

[Memorandum—January 5, 1988]

The regular meetings of the Washington State Transportation Commission will be held on the third Thursday of each month in Room 1D2, Transportation Building, Olympia, Washington, at 9:30 a.m.

#### **WSR 88-03-003**

##### **ADOPTED RULES**

##### **SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Order 88-1—Filed January 8, 1988]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Finance—Salary—Compensation lid compliance, chapter 392-126 WAC.

This action is taken pursuant to Notice No. WSR 87-22-056 filed with the code reviser on November 3, 1987. 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.58-.095 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 8, 1988.

By Frank B. Brouillet  
Superintendent of Public Instruction

#### NEW SECTION

**WAC 392-126-003 TERMINATION DATE.** This chapter is effective for salaries and benefits for the 1986-87 school year. Due to the repeal of RCW 28A-.58.095, salaries and benefits for the 1987-88 school year and thereafter are not subject to the provisions of this chapter.

#### **WSR 88-03-004**

##### **ADOPTED RULES**

##### **SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Order 88-2—Filed January 8, 1988]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt the annexed rules relating to Finance—Administrative salary and insurance benefit compliance, chapter 392-127 WAC.

This action is taken pursuant to Notice No. WSR 87-22-057 filed with the code reviser on November 3, 1987. 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.58-.095 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 8, 1988.

By Frank B. Brouillet  
Superintendent of Public Instruction

#### NEW SECTION

**WAC 392-127-003 TERMINATION DATE.** This chapter is effective for salaries and benefits for the 1986-87 school year. Due to the repeal of RCW 28A-.58.095, salaries and benefits for the 1987-88 school year and thereafter are not subject to the provisions of this chapter.

#### **WSR 88-03-005**

##### **ADOPTED RULES**

##### **SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Order 88-4—Filed January 8, 1988]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia,

Washington, the annexed rules relating to Finance—Special allocations, WAC 392-140-145 through 392-140-159.

This action is taken pursuant to Notice No. WSR 87-22-074 filed with the code reviser on November 4, 1987. 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.41-.170 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 January 8, 1988.

By Frank B. Brouillet  
Superintendent of Public Instruction

#### NEW SECTION

WAC 392-140-145 1987-89 MINIMUM SALARY ALLOCATIONS—APPLICABLE PROVISIONS. The provisions of WAC 392-140-145 through 392-140-159 shall be applicable for the 1987-88 and 1988-89 school year minimum salary allocations pursuant to section 3, chapter 1, Laws of 1987 3rd ex. sess.

#### NEW SECTION

WAC 392-140-146 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—SCHOOL YEAR. As used in WAC 392-140-145 through 392-140-159, "school year" means the same as defined in WAC 392-121-031.

#### NEW SECTION

WAC 392-140-147 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—CURRENT SCHOOL YEAR. As used in WAC 392-140-145 through 392-140-159, "current school year" means the school year for which minimum salary allocations are made pursuant to this chapter.

#### NEW SECTION

WAC 392-140-148 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—PRIOR SCHOOL YEAR. As used in WAC 392-140-145 through 392-140-159, "prior school year" means the school year prior to the school year for which minimum salary allocations are made pursuant to this chapter.

#### NEW SECTION

WAC 392-140-149 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—CERTIFICATED INSTRUCTIONAL EMPLOYEE. As used in WAC 392-140-145 through 392-140-159, "certificated instructional employee" means the same as defined in WAC 392-121-205.

#### NEW SECTION

WAC 392-140-150 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—FORM F-275. As used in WAC 392-140-145 through 392-140-159, "Form F-275" means the same as defined in WAC 392-121-220.

#### NEW SECTION

WAC 392-140-151 MINIMUM SALARY ALLOCATIONS—DEFINITION—CERTIFICATED INSTRUCTIONAL EMPLOYEE FULL-TIME EQUIVALENCY (FTE). As used in this chapter, "certificated instructional employee full-time equivalency (FTE)" means the number rounded to three decimal places determined as follows:

(1) An employee of the school district who is contracted to provide services as a certificated instructional employee for not less than one hundred eighty full work days shall be counted as one FTE.

(2) An employee of the school district who is contracted to provide services for one hundred eighty partial days as a certificated instructional employee shall be counted as a partial FTE, such part to be the quotient to the nearest thousandth obtained by dividing that part of the day worked by the full day as determined by the district.

(3) An employee of the school district who is contracted to provide services for less than one hundred eighty full work days as a certificated instructional employee shall be counted as a partial FTE, such part to be the quotient rounded to the nearest thousandth obtained by dividing the number of work days contracted for by one hundred eighty: PROVIDED, That if the normal annual full-time contract for the position exceeds one hundred eighty work days, the greater number of work days normally contracted shall be used as the divisor.

(4) An employee of the school district who is contracted to provide services for less than one hundred eighty partial days as a certificated instructional employee shall be counted as a partial FTE, such part to be the quotient to the nearest thousandth obtained by dividing the part of the day worked by the full day as determined by the district and then multiplying the result by the ratio of work days contracted for to one hundred eighty: PROVIDED, That if the normal annual full-time contract for the position exceeds one hundred eighty work days, the greater number of work days normally contracted shall be used in place of one hundred eighty in the ratio.

(5) For the purposes of this section a certificated instructional employee's contracted time is determined by the employee's contracted assignments as of October 1 of the current school year as reported to the superintendent of public instruction on Form F-275 pursuant to chapter 392-121 WAC.

(6) No employee shall be counted as more than one full-time equivalent certificated staff unit.

(7) The length of a full work day as used in this section shall be determined by the district.

NEW SECTION

WAC 392-140-152 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—MINIMUM REQUIRED SALARY. As used in WAC 392-140-145 through 392-140-159, "minimum required salary" means the salary amount for a certificated instructional employee for a given school year as determined in this section.

(1) For the 1987-88 school year an employee's minimum required salary equals the employee's full-time equivalency as a certificated instructional employee times:

(a) For an employee whose highest degree level is a bachelor's degree, \$17,050; or

(b) For an employee whose highest degree level is a master's degree, \$20,000.

(2) For the 1988-89 school year an employee's minimum required salary equals the employee's full-time equivalency as a certificated instructional employee times:

(a) For an employee whose highest degree level is a bachelor's degree, \$17,600; or

(b) For an employee whose highest degree level is a master's degree, \$20,645.

(3) For the purposes of this section an employee's highest degree level shall be the highest degree level of the employee as of October 1 of the school year as reported to the superintendent of public instruction on Form F-275 pursuant to chapter 392-121 WAC.

NEW SECTION

WAC 392-140-153 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—PRIOR SCHOOL YEAR ADJUSTED SALARY. As used in WAC 392-140-145 through 392-140-159, "prior school year adjusted salary" means the salary rounded to the nearest whole dollar that the school district would have paid an employee for the prior school year in the certificated instructional position or positions held by the employee in the current school year using the employee's current school year education, years of experience and full-time equivalency.

(1) In determining prior school year adjusted salary, the position or positions held by the employee in the current school year, the employee's education, years of experience, and full-time equivalency shall be as of October 1 of the current school year as reported to the superintendent of public instruction on Form F-275 pursuant to chapter 392-121 WAC.

(2) No employee's prior school year adjusted salary for 1986-87 shall be considered to be less than \$16,500 on a full-time equivalent basis if the school district had received salary enhancement allocations under section 502(3)(f) of chapter 7, Laws of 1987, to establish a minimum salary of \$16,500.

NEW SECTION

WAC 392-140-154 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—LEAP DOCUMENT 1. As used in WAC 392-140-145 through

392-140-159, "LEAP Document 1" means the same as defined in WAC 392-121-267.

NEW SECTION

WAC 392-140-155 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—LEAP DOCUMENT 11. As used in WAC 392-140-145 through 392-140-159, "LEAP Document 11" means the same as defined in WAC 392-121-268.

NEW SECTION

WAC 392-140-156 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—DISTRICT DERIVED BASE SALARY FOR PURPOSE OF APPORTIONMENT. As used in WAC 392-140-145 through 392-140-159, "district derived base salary for purpose of apportionment" means amount rounded to the nearest whole dollar determined for each school district as follows:

(1) Determine the district average basic education certificated instructional staff salary for purpose of apportionment determined pursuant to WAC 392-121-299; and

(2) Divide by the district average staff mix factor for basic education certificated instructional staff for the same school year determined pursuant to WAC 392-121-295.

NEW SECTION

WAC 392-140-157 1987-89 MINIMUM SALARY ALLOCATIONS—DETERMINATION OF PERCENTAGE INCREASE IN THE DISTRICT DERIVED BASE SALARY. The percentage increase in a school district's derived base salary between the prior and current school years shall be the percentage rounded to two decimal places calculated pursuant to this section.

(1) The percentage increase between the 1986-87 and 1987-88 school years is calculated as follows:

(a) Determine the school district's 1987-88 derived base salary for purpose of apportionment pursuant to WAC 392-140-156;

(b) Subtract the school district's 1986-87 basic education certificated instructional derived base salary as shown on LEAP Document 11;

(c) Divide the result by the school district's 1986-87 basic education certificated instructional derived base salary shown on LEAP Document 11; and

(d) Multiply the result by one hundred.

(2) The percentage increase between the 1987-88 and 1988-89 school years is calculated as follows:

(a) Determine the school district's 1988-89 derived base salary for purpose of apportionment pursuant to WAC 392-140-156;

(b) Subtract the school district's 1987-88 derived base salary for purpose of apportionment determined pursuant to WAC 392-121-156;

(c) Divide the result by the school district's 1987-88 derived base salary for purpose of apportionment determined pursuant to WAC 392-121-156; and

(d) Multiply the result by one hundred.

NEW SECTION

WAC 392-140-158 1987-89 MINIMUM SALARY ALLOCATIONS—DEFINITION—ELIGIBLE EMPLOYEE. As used in this chapter, "eligible employee" means a certificated instructional employee whose minimum required salary for the current school year exceeds their prior school year adjusted salary increased by the percentage increase between the prior and current school years in the employing school district's derived base salary.

NEW SECTION

WAC 392-140-159 1987-89 MINIMUM SALARY ALLOCATIONS—DETERMINATION OF MINIMUM SALARY ALLOCATIONS. In the 1987-88 and 1988-89 school years the superintendent of public instruction may allocate moneys to school districts to implement minimum salaries for eligible employees as follows:

- (1) For each eligible employee of a school district determine the employee's prior school year adjusted salary pursuant to WAC 392-140-153;
- (2) Increase the result of subsection (1) of this section by the percentage increase between the prior and current school years in the district's derived base salary determined pursuant to WAC 392-140-157 and round to the nearest whole dollar;
- (3) Subtract the result of subsection (2) of this section from the employee's minimum required salary for the current school year determined pursuant to WAC 392-140-152;
- (4) Sum the result of subsection (3) of this section for all eligible employees of the school district; and
- (5) The amount determined in subsection (4) of this section is the amount of the school district's minimum salary allocation for the school year.

**WSR 88-03-006****ADOPTED RULES****SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Order 88-5—Filed January 8, 1988]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to WAC 392-195-010 and 392-195-015.

This action is taken pursuant to Notice No. WSR 87-22-026 filed with the code reviser on October 28, 1987. 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.71-.210 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 January 8, 1988.

By Frank B. Brouillet  
Superintendent of Public Instruction

AMENDATORY SECTION (Amending Order 84-44, filed 10/2/84)

WAC 392-195-010 DEFINITIONS. As used in this chapter:

- (1) "Applicants" shall mean common school districts and educational service districts.
- (2) "In-service training" shall mean a cooperatively planned program of training for job-related activities designed to increase the competencies of common school certificated and classified employees in the performance of their assigned responsibilities.
- (3) "Needs assessment" shall mean a systematic study ~~((of))~~ to determine strengths and weaknesses of certificated and classified personnel related to the educational needs of the community ~~((, staff,))~~ and students to be served.
- (4) "Funds" shall mean those funds appropriated by the legislature and available for the conduct and evaluation of in-service training programs.

AMENDATORY SECTION (Amending Order 84-44, filed 10/2/84)

WAC 392-195-015 APPLICATION TO SPI FOR FUNDING. Applicants shall request funds from the superintendent of public instruction in accordance with the provisions set forth below:

- (1) Applicants shall conduct a needs assessment.
- (2) The board of an applicant shall appoint an advisory in-service training task force of members comprised of representatives from administrators, building principals, teachers, classified and support personnel employed by the applicant, an institution of higher education, and the general public in such numbers as shall be established by the applicant board of directors.
- (3) The applicant shall establish written goals and objectives, identify training activities relevant thereto and design evaluation procedures and criteria which assess the degree and level of attainment of the goals and objectives.

(4) The task force shall ~~((review applications submitted))~~ participate in identifying the in-service training needs and goals pursuant to this chapter and suggest changes, if any, in direction, focus, or evaluation methods. No application will be accepted which is not approved by a majority vote of the task force.

(5) Nonpublic school personnel may be invited to participate in continuing professional development activities by the applicant.

(6) The applicant shall demonstrate with a signed statement of assurance to the superintendent of public instruction its intention to implement the recommendations of the needs assessment.

(7) Funds shall supplement, not supplant, the existing staff development and in-service activities of an applicant.

**WSR 88-03-007**  
**ADOPTED RULES**  
**SUPERINTENDENT OF PUBLIC INSTRUCTION**  
 [Order 88-6—Filed January 8, 1988]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Finance—Maintenance and operation levies, chapter 392-139 WAC.

This action is taken pursuant to Notice No. WSR 87-22-025 filed with the code reviser on October 28, 1987. 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 84.52.0531(10) and 28A.41.170 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 January 8, 1988.

By Frank B. Brouillet  
 Superintendent of Public Instruction

Chapter 392-139 WAC  
**FINANCE—MAINTENANCE AND OPERATION**  
**((LEVY LIMITS)) LEVIES**

**GENERAL PROVISIONS AND DEFINITIONS**

**WAC**

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- 392-139-005 Purpose.
- 392-139-007 Organization of this chapter.
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- 392-139-120 Definition—4121 Education of handicapped children.
- 392-139-122 Definition—4155 Remediation.
- 392-139-126 Definition—4165 Transitional bilingual.
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- 392-139-132 Definition—4199 Transportation—Operations.
- 392-139-134 Definition—4499 Transportation reimbursement—Depreciation.
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- 392-139-152 Definition—6100 Special purpose, SPI, unassigned.
- 392-139-154 Definition—6124 Handicapped EHA, supplemental Part B.
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- 392-139-158 Definition—6138 Secondary vocational education, P.L. 98-524.
- 392-139-160 Definition—6146 Skills center.
- 392-139-162 Definition—6151 Remediation, ECIA, chapter 1.
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- 392-139-166 Definition—6162 Refugee, P.L. 96-212.
- 392-139-168 Definition—6164 Bilingual, Title VII, P.L. 95-561.
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- 392-139-178 Definition—6200 Direct special purpose grants.
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**DETERMINATION OF EXCESS LEVY AUTHORITY**

- 392-139-300 Establishment of excess levy authority for school districts—General.
- 392-139-310 Determination of excess levy base.
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### DEFINITIONS FOR LOCAL EFFORT ASSISTANCE

- 392-139-600 Definition—Adjusted assessed valuation.
- 392-139-605 Definition—District ten percent levy amount.
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### DETERMINATION OF LOCAL EFFORT ASSISTANCE

- 392-139-650 Determination of local effort assistance—General.
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- 392-139-900 Notification of amounts calculated.

### GENERAL PROVISIONS AND DEFINITIONS

#### AMENDATORY SECTION (Amending Order 84-4, filed 2/9/84)

WAC 392-139-001 AUTHORITY. The ~~((authority))~~ authorities for this chapter ~~((is))~~ are RCW 84.52.0531~~((7) which)~~ (10) and 28A.41.170.

(1) RCW 84.52.0531~~(10)~~ authorizes the superintendent of public instruction to promulgate rules and regulations regarding the limitation of local school district ~~((special))~~ excess levies otherwise known as the "Special levy lid law."

(2) RCW 28A.41.170 authorizes the superintendent of public instruction to promulgate such rules and regulations as are necessary for administration of state general fund support for the common schools pursuant to chapter 28A.41 RCW. Rules regarding allocation of state general fund moneys for the purpose of partially equalizing excess levy tax rates, otherwise known as "local effort assistance" are adopted pursuant to this general authority.

#### AMENDATORY SECTION (Amending Order 83-18, filed 11/9/83)

WAC 392-139-005 PURPOSE. The purposes of this chapter ~~((is to))~~ are to define the annual procedures that the superintendent of public instruction shall use:

(1) To establish the exclusive means for fixing the maximum dollar amount ~~((of taxes))~~ which may be levied ~~((on property and collected))~~ on behalf of any school district in ~~((a given tax))~~ calendar year 1988 for general fund maintenance and operation purposes pursuant to RCW 84.52.053 and 84.52.0531. ~~((These rules shall be effective for calculation of taxes collected in calendar years 1984 through 1989.))~~

(2) To establish the exclusive means for fixing:

(a) The maximum dollar amount which may be levied on behalf of any school district in a given calendar year, beginning in calendar year 1989 and thereafter, for general fund maintenance and operation support pursuant to RCW 84.52.053 and 84.52.0531; and

(b) The maximum possible amount of state general fund moneys an eligible school district may receive in a given calendar year, beginning in 1989 and thereafter, as state matching moneys for excess levies pursuant to sections 102 and 212, chapter 2, Laws of 1987 1st ex. sess.; and

(3) To establish the exclusive means for fixing the dollar amount of state general fund moneys that each eligible school district shall receive in a given calendar year, beginning in calendar year 1989 and thereafter, as state matching moneys for excess levies pursuant to sections 102 and 212, chapter 2, Laws of 1987 1st ex. sess.

### NEW SECTION

WAC 392-139-007 ORGANIZATION OF THIS CHAPTER. This chapter contains rules for excess levy authority and state matching money for excess levies also known as local effort assistance. The general organization of the chapter is as follows:

Sections 001-099 General provisions and definitions.

Sections 100-299 Definitions for excess levy authority.

Sections 300-399 Determination of excess levy authority.

Sections 600-649 Definitions for local effort assistance.

Sections 650-699 Determination of local effort assistance.

Section 900 Notification provisions.

### NEW SECTION

WAC 392-139-050 DEFINITION—SCHOOL YEAR. As used in this chapter, "school year" means the same as defined in WAC 392-121-031.

### NEW SECTION

WAC 392-139-051 DEFINITION—PRIOR SCHOOL YEAR. As used in this chapter, "prior school year" means the most recent school year completed prior to the calendar year for which excess levy authority is being calculated pursuant to this chapter.

### NEW SECTION

WAC 392-139-052 DEFINITION—CURRENT SCHOOL YEAR. As used in this chapter, "current school year" means the school year completed during the calendar year for which excess levy authority is being calculated pursuant to this chapter.

### NEW SECTION

WAC 392-139-055 DEFINITION—CALENDAR YEAR. As used in this chapter:

(1) "Calendar year" means January 1 through December 31.

(2) The term "calendar year" is synonymous with the statutory terms "tax collection year" and "levy collection

year" as used in RCW 84.52.0531 and chapter 2, Laws of 1987 1st ex. sess.

#### NEW SECTION

WAC 392-139-056 DEFINITION—CURRENT CALENDAR YEAR. As used in this chapter, "current calendar year" means the calendar year prior to the calendar year for which excess levy authority is being calculated pursuant to this chapter.

#### NEW SECTION

WAC 392-139-057 DEFINITION—NEXT CALENDAR YEAR. As used in this chapter, "next calendar year" means the calendar year for which levy authority is being calculated pursuant to this chapter.

### DEFINITIONS FOR EXCESS LEVY AUTHORITY

#### NEW SECTION

WAC 392-139-100 DEFINITION—CERTIFIED EXCESS LEVY. As used in this chapter, "certified excess levy" means the amount certified pursuant to RCW 84.52.020 by or on behalf of a school district to the board or boards of county commissioners of the county or counties of the school district for collection in a given calendar year for general fund maintenance and operation support of the school district pursuant to RCW 84.52.053.

#### NEW SECTION

WAC 392-139-105 DEFINITION—EXCESS LEVY AUTHORITY. As used in this chapter, the term "excess levy authority" means the maximum allowed dollar amount of a district's certified excess levy for a given calendar year as determined pursuant to this chapter.

#### NEW SECTION

WAC 392-139-110 DEFINITION—REPORT 1191. As used in this chapter, "Report 1191" means the monthly report prepared and distributed by the superintendent of public instruction which includes the number of basic education allocation formula derived certificated and classified staff units, the compensation entitlement amounts for such staff, the basic education allocation provided for each average annual full-time equivalent student, the basic education allocation, and the amount of state-funded support for the school year for each school district. The amount of a district's basic education allocation included in the excess levy base pursuant to WAC 392-139-310 (2)(a) is taken from this report.

#### NEW SECTION

WAC 392-139-115 DEFINITION—BASIC EDUCATION ALLOCATION. As used in this chapter, "basic education allocation" means the amount of state moneys calculated by the superintendent of public instruction which is the basis for the superintendent's distribution of moneys to school districts for the operation

of a basic program of education pursuant to RCW 28A.58.750, et seq., 28A.41.130, and 28A.41.140, chapter 392-121 WAC, and the Biennial Appropriations Act. The amount of a district's total guaranteed entitlement plus substitute teacher and skills center summer program funding as reported on the August Report 1191 is considered a district's basic education allocation in determining the district's excess levy base pursuant to WAC 392-139-310.

#### NEW SECTION

WAC 392-139-120 DEFINITION—4121 EDUCATION OF HANDICAPPED CHILDREN. As used in this chapter, "4121 Education of handicapped children" means the school district general fund revenue account in which is recorded revenue for a program for education of handicapped children pursuant to chapter 28A.13 RCW, RCW 28A.41.053, chapter 392-171 WAC and the Biennial Appropriations Act.

#### NEW SECTION

WAC 392-139-122 DEFINITION—4155 REMEDIATION. As used in this chapter, "4155 Remediation" means the school district general fund revenue account in which is recorded revenue for a remedial assistance program pursuant to RCW 28A.41.400 through 28A.41.414, chapter 392-162 WAC, and the Biennial Appropriations Act.

#### NEW SECTION

WAC 392-139-126 DEFINITION—4165 TRANSITIONAL BILINGUAL. As used in this chapter, "4165 Transitional bilingual" means the school district general fund revenue account in which is recorded revenue for a transitional bilingual instruction program pursuant to RCW 28A.58.800 and 28A.58.810, chapter 392-160 WAC, and the Biennial Appropriations Act.

#### NEW SECTION

WAC 392-139-128 DEFINITION—4174 GIFTED AND TALENTED. As used in this chapter, "4174 Gifted and talented" means the school district general fund revenue account in which is recorded revenue for a program for gifted and talented students, pursuant to chapter 28A.16 RCW, chapter 392-170 WAC, and the Biennial Appropriations Act.

#### NEW SECTION

WAC 392-139-130 DEFINITION—4198 SCHOOL FOOD SERVICES. As used in this chapter, "4198 School food services" means the school district general fund revenue account in which is recorded revenue for the state matching requirement for federal lunch program funding.

#### NEW SECTION

WAC 392-139-132 DEFINITION—4199 TRANSPORTATION—OPERATIONS. As used in this chapter, "4199 Transportation—Operations" means the school district general fund revenue account in which

is recorded revenue for reimbursement for operation of a student transportation program pursuant to RCW 28A.41.505, 28A.24.055, and 28A.24.100, chapter 392-141 WAC, and the Biennial Appropriations Act.

#### NEW SECTION

WAC 392-139-134 DEFINITION—4499 TRANSPORTATION REIMBURSEMENT—DEPRECIATION. As used in this chapter, "4499 Transportation reimbursement—Depreciation" means the school district transportation vehicle fund revenue account in which is recorded revenue for replacement or depreciation of transportation equipment pursuant to RCW 28A.41.540, chapter 392-141 WAC, and the Biennial Appropriations Act.

#### NEW SECTION

WAC 392-139-150 DEFINITION—5200 GENERAL PURPOSE DIRECT GRANTS, UNASSIGNED. As used in this chapter, "5200 General purpose direct grants, unassigned" means the school district general fund revenue account in which are recorded federal unassigned general purpose grants.

#### NEW SECTION

WAC 392-139-152 DEFINITION—6100 SPECIAL PURPOSE, SPI, UNASSIGNED. As used in this chapter, "6100 Special purpose, SPI, unassigned" means the school district general fund revenue account in which is recorded revenue from any federal source distributed by the superintendent of public instruction that is not assignable to a specific 6000 series revenue account.

#### NEW SECTION

WAC 392-139-154 DEFINITION—6124 HANDICAPPED EHA, SUPPLEMENTAL PART B. As used in this chapter, "6124 Handicapped EHA, supplemental Part B" means the school district general fund revenue account in which is recorded revenue from grants to school districts to assist them in providing a free and appropriate public education to all.

#### NEW SECTION

WAC 392-139-156 DEFINITION—6127 HANDICAPPED, DEINSTITUTIONALIZED. As used in this chapter, "6127 Handicapped EHA, supplemental Part B" means the school district general fund school districts to assist them in providing a free and appropriate public education to all.

#### NEW SECTION

WAC 392-139-158 DEFINITION—6138 SECONDARY VOCATIONAL EDUCATION, P.L. 98-524. As used in this chapter, "6138 Secondary vocational education, P.L. 98-524" means the school district general fund revenue account in which are recorded grants for school district vocational education programs for handicapped students, disadvantaged individuals, and

programs to eliminate sex bias and stereotyping commonly known as the Carl D. Perkins Vocational Education Act, P.L. 98-524.

#### NEW SECTION

WAC 392-139-160 DEFINITION—6146 SKILLS CENTER. As used in this chapter, "6146 Skills center" means the school district general fund revenue account in which are recorded federal revenues for programs that provide employment skills for secondary students attending skills centers.

#### NEW SECTION

WAC 392-139-162 DEFINITION—6151 REMEDIATION, ECIA, CHAPTER 1. As used in this chapter, "6151 Remediation, ECIA, chapter 1" means the school district general fund revenue account in which are recorded federal revenues received through the apportionment process for the reimbursement of expenditure claims for expenditures for the educational needs of disadvantaged children pursuant to chapter 392-163 WAC.

#### NEW SECTION

WAC 392-139-164 DEFINITION—6153 MIGRANT, ECIA, CHAPTER 1. As used in this chapter, "6153 Migrant, ECIA, chapter 1" means the school district general fund revenue account in which are recorded federal revenues arising from claims filed for expenditures of educational remediation programs for the children of migratory agricultural workers or fishers pursuant to chapter 392-164 WAC.

#### NEW SECTION

WAC 392-139-166 DEFINITION—6162 REFUGEE, P.L. 96-212. As used in this chapter, "6162 Refugee, P.L. 96-212" means the school district general fund revenue account in which are recorded federal revenues distributed by the superintendent of public instruction for expenditures to improve the English language skills of refugee children.

#### NEW SECTION

WAC 392-139-168 DEFINITION—6164 BILINGUAL, TITLE VII, P.L. 95-561. As used in this chapter, "6164 Bilingual, Title VII, P.L. 95-561" means the school district general fund revenue account in which are recorded federal revenues distributed by the superintendent of public instruction for programs for the improvement of English language skills commonly known as Title VII, P.L. 95-561.

#### NEW SECTION

WAC 392-139-170 DEFINITION—6167 INDIAN EDUCATION, JOM. As used in this chapter, "6167 Indian education, JOM" means the school district general fund revenue account in which are recorded federal revenues for Indian education programs commonly known as Johnson-O'Malley programs, P.L. 93-368.

NEW SECTION

WAC 392-139-172 DEFINITION—6176 INSTRUCTIONAL AID, ECIA, CHAPTER 2. As used in this chapter, "6176 Instructional aid, ECIA, chapter 2" means the school district general fund revenue account in which are recorded federal revenues authorized under chapter 2 of the Education Consolidation and Improvement Act (ECIA) and distributed by the superintendent of public instruction pursuant to chapter 392-165 WAC.

NEW SECTION

WAC 392-139-174 DEFINITION—6177 MATHEMATICS AND SCIENCE. As used in this chapter, "6177 Mathematics and science" means the school district general fund revenue account in which are recorded federal revenues for mathematics and science programs.

NEW SECTION

WAC 392-139-176 DEFINITION—6198 SCHOOL FOOD SERVICES. As used in this chapter, "6198 School food services" means the school district general fund revenue account in which are recorded federal revenues distributed by the superintendent of public instruction for federal lunch, breakfast, and milk programs based on the number of reimbursable student lunches, breakfasts, and milk served.

NEW SECTION

WAC 392-139-178 DEFINITION—6200 DIRECT SPECIAL PURPOSE GRANTS. As used in this chapter, "6200 Direct special purpose grants" means the school district general fund revenue account in which are recorded special purpose grants distributed directly by the federal government which are assignable to a specific 6200 series revenue account.

NEW SECTION

WAC 392-139-180 DEFINITION—6246 SKILLS CENTER, DIRECT FEDERAL GRANT. As used in this chapter, "6246 Skills center, direct federal grant" means the school district general fund revenue account in which are recorded direct grants from the federal government for skills center programs.

NEW SECTION

WAC 392-139-182 DEFINITION—6264 BILINGUAL, TITLE VII, P.L. 95-561. As used in this chapter, "6264 Bilingual, Title VII, P.L. 95-561" means the school district general fund revenue account in which are recorded direct grants from the federal government for the reimbursement of school district expenditures to improve English language skills commonly known as Title VII, P.L. 95-561.

NEW SECTION

WAC 392-139-184 DEFINITION—6268 INDIAN EDUCATION, P.L. 92-318. As used in this chapter, "6268 Indian education, P.L. 92-318" means the

school district general fund revenue account in which are recorded direct grants from the federal government for education of Indian youth commonly known as P.L. 92-318 but not for programs for Indian education commonly known as Johnson-O'Malley programs.

NEW SECTION

WAC 392-139-186 DEFINITION—6998 USDA COMMODITIES. As used in this chapter, "6998 USDA commodities" means the school district general fund revenue account in which is recorded as revenue the value of USDA commodities, including cash-in-lieu of commodities distributed to the district during the school year.

NEW SECTION

WAC 392-139-200 DEFINITION—REPORT 1197. As used in this chapter, "Report 1197" means the monthly statement of apportionment prepared and distributed by the superintendent of public instruction which reports the annual allotment of state and federal funds. The dollar amounts of allotments for selected accounts reported on the August Report 1197 are included in the district excess levy base calculated pursuant to WAC 392-139-310. The accounts included in the levy base and reported on Report 1197 are listed in WAC 392-139-310 (4)(a).

NEW SECTION

WAC 392-139-205 DEFINITION—F-195. As used in this chapter, "F-195" means the annual school district budget document officially adopted by each school district pursuant to chapter 28A.65 RCW for each year's operations. This document includes estimates of revenues to be received from federal sources during the school year. The amount of federal revenues reported on a district's F-195 for the prior school year are included in the district's excess levy base pursuant to WAC 392-139-310 if they qualify for inclusion and are not reported on Report 1197. The accounts included in the levy base and reported on the F-195 are listed in WAC 392-139-310 (4)(b).

NEW SECTION

WAC 392-139-210 DEFINITION—ANNUAL AVERAGE FULL-TIME EQUIVALENT (AAFTE) STUDENTS. As used in this chapter, "annual average full-time equivalent (AAFTE) students" means the same defined in WAC 392-121-133.

NEW SECTION

WAC 392-139-215 DEFINITION—P-223H. As used in this chapter, "P-223H" means the form entitled monthly report of school district's handicapped enrollment. P-223H forms are printed and distributed annually by the superintendent of public instruction to all districts. School districts used the P-223H to report nonresident enrollments of handicapped students in programs approved pursuant to chapter 392-135 WAC as interdistrict cooperative programs. Enrollments reported

on the P-223H are used in calculating excess levy authority transfers pursuant to WAC 392-139-330 and 392-139-340 when the reporting district is not required to complete form 1067.

#### NEW SECTION

WAC 392-139-220 DEFINITION—P-223NR. As used in this chapter, "P-223NR" means the form entitled monthly report of school district nonresident enrollment. P-223NR forms are printed and distributed annually by the superintendent of public instruction to school districts with alternative education or vocational cooperatives. School districts use the P-223NR to report nonresident enrollments in alternative/academic education or vocational education programs approved pursuant to chapter 392-135 WAC as interdistrict cooperative programs. Enrollments reported on this form are used in calculating transfers of excess levy authority pursuant to WAC 392-139-330 and 392-139-340.

#### NEW SECTION

WAC 392-139-225 DEFINITION—FORM 1067. As used in this chapter, "Form 1067" means the form entitled special education cooperative enrollment, annual average full-time equivalent enrollment. Form 1067 is printed and distributed annually by the superintendent of public instruction to districts that have special education cooperatives. School districts use form 1067 to report AAFTE students residing in another district and enrolled in a program for education of handicapped children established as an interdistrict cooperative program pursuant to chapter 392-135 WAC. Enrollments from this report are used in calculating excess levy authority transfers pursuant to WAC 392-139-330 and 392-139-340.

#### NEW SECTION

WAC 392-139-230 DEFINITION—P-213. As used in this chapter, "P-213" means the form entitled report of students residing in nonhigh districts enrolled in high school districts. P-213 forms are printed and distributed annually by the superintendent of public instruction to high school districts educating students from nonhigh school districts. School districts use the P-213 to report enrollment of students residing in a nonhigh school district and enrolled in a high school district pursuant to chapter 28A.44 RCW and chapter 392-132 WAC. Enrollments reported on this form are used in calculating excess levy authority transfers from high school districts to nonhigh school districts pursuant to WAC 392-139-340.

#### NEW SECTION

WAC 392-139-235 DEFINITION—ANNUAL AVERAGE FULL-TIME EQUIVALENT (AAFTE) RESIDENT ENROLLMENT. As used in this chapter "AAFTE resident enrollment" means the AAFTE students residing in a school district which shall be determined as follows:

(1) Determine total AAFTE students enrolled in the school district for the school year;

(2) Add AAFTE students residing in the school district but enrolled in another school district pursuant to an interdistrict cooperation agreement authorized pursuant to RCW 28A.58.075, 28A.58.245, and chapter 392-135 WAC;

(3) Add AAFTE students residing in the school district but enrolled in another school district pursuant to chapter 28A.44 RCW and chapter 392-132 WAC;

(4) Subtract AAFTE students residing in another school district but enrolled in the school district pursuant to an interdistrict cooperation agreement authorized pursuant to RCW 28A.58.075, 28A.58.245, and chapter 392-135 WAC;

(5) Subtract AAFTE students residing in another school district but enrolled in the school district pursuant to chapter 28A.44 RCW and chapter 392-132 WAC.

#### NEW SECTION

WAC 392-139-240 DEFINITION—BASE YEAR LEVY PERCENTAGE. As used in this chapter, "base year levy percentage" means the greater of:

(1) The school district's actual levy percentage for calendar year 1985;

(2) The average levy percentage for all school district levies in the state in calendar year 1985; or

(3) The average levy percentage for all school district levies in the educational service district of the school district in calendar year 1985.

#### NEW SECTION

WAC 392-139-245 DEFINITION—LEVY REDUCTION FUNDS. As used in this chapter, "levy reduction funds" means the increases in state allocations to a school district determined as follows:

(1) For calendar year 1988, the following basic education allocations for the 1987-88 school year calculated pursuant to section 503, chapter 7, Laws of 1987 1st ex. sess. shall be recognized as levy reduction funds:

(a) Salaries and benefits for one additional certificated instructional staff unit for each one thousand AAFTE students in kindergarten through third grade; and

(b) Nonemployee related costs for two additional certificated instructional staff units for each one thousand AAFTE students in kindergarten through third grade.

(2) For calendar year 1989, the following basic education allocations for the 1988-89 school year calculated pursuant to section 503, chapter 7, Laws of 1987 1st ex. sess. shall be recognized as levy reduction funds: Salaries, benefits, and nonemployee related costs for one additional certificated instructional staff unit for each one thousand AAFTE students in kindergarten through third grade.

### DETERMINATION OF EXCESS LEVY AUTHORITY

NEW SECTION

WAC 392-139-300 ESTABLISHMENT OF EXCESS LEVY AUTHORITY FOR SCHOOL DISTRICTS—GENERAL. Notwithstanding such larger dollar amount as may be approved by the electorate of a school district pursuant to RCW 84.52.053, the maximum dollar amount of any school district's certified excess levy for any given calendar year beginning with 1988 shall equal the excess levy authority established by the superintendent of public instruction in accordance with the following procedures:

(1) Only figures and data gathered and approved by the superintendent of public instruction shall be used.

(2) Each district's excess levy authority shall be determined as follows:

(a) Multiply the district's excess levy base determined pursuant to WAC 392-139-310 by the district's maximum excess levy percentage determined pursuant to WAC 392-139-320;

(b) Adjust the district's excess levy authority for transfers determined pursuant to WAC 392-139-330 and 392-139-340; and

(c) Subtract the district's maximum local effort assistance determined pursuant to WAC 392-139-660.

(3) If excess levy authority calculations made pursuant to this chapter are dependent on factors which are not finalized at the time of the calculations, the superintendent of public instruction shall base the calculations on estimates at the time of the calculations.

(4) In calculations of excess levy authority performed pursuant to this chapter, dollars shall be rounded to the nearest whole dollar, student enrollments shall be rounded to two decimal places, ratios shall be rounded to four decimal places, and percentages shall be rounded to two decimal places.

(5) The superintendent of public instruction shall annually provide all districts with the appropriate calculation procedures for the purposes of this chapter.

NEW SECTION

WAC 392-139-310 DETERMINATION OF EXCESS LEVY BASE. In calendar year 1987 and each year thereafter, the superintendent of public instruction shall calculate each school district's excess levy base to be used in establishing the district's excess levy authority for the next calendar year.

(1) The dollar amount of each school district's excess levy base equals the sum of state and federal allocations identified in subsection (2) of this section increased by the percentage increase per full-time equivalent student in the state basic education appropriation between the prior school year and the current school year.

(2) Each district's excess levy base includes the following state and federal allocations for the district for the prior school year:

(a) The district's basic education allocation as defined in WAC 392-139-115 and as reported on the August Report 1191;

(b) The district's state and federal categorical allocations for the following programs:

(i) Pupil transportation. Allocations for pupil transportation include allocations for programs identified by the following accounts:

- 4199 Transportation – operations; and
- 4499 Transportation reimbursement – depreciation.

(ii) Handicapped education. Allocations for handicapped education include allocations for programs identified by the following accounts:

- 4121 Education of handicapped children;
- 6124 Handicapped supplemental, EHA, Part B; and
- 6127 Handicapped deinstitutionalized.

(iii) Education of highly capable students. Allocations for education of highly capable students include allocations for program 4174 Gifted and talented.

(iv) Compensatory education, including but not limited to learning assistance, migrant education, Indian education, refugee programs, and bilingual education. Allocations for compensatory education include allocations for programs identified by the following accounts:

- 4155 Remediation;
- 4165 Transitional bilingual;
- 6151 Remediation, ECIA chapter 1;
- 6153 Migrant, ECIA chapter 1;
- 6162 Refugee programs;
- 6164 Bilingual, Title VII, P.L. 95-561 (SPI);
- 6167 Indian education, JOM;
- 6264 Bilingual, Title VII, P.L. 95-561 (direct); and
- 6268 Indian education, P.L. 92-318.

(v) Food services. Allocations for food services include allocations for programs identified by the following accounts:

- 4198 Food services (state);
- 6198 Food services (federal); and
- 6998 USDA commodities.

(vi) State-wide block grant programs. Allocations for state-wide block grant programs include allocations for programs identified as 6176 Instructional aid, ECIA, chapter 2.

(c) The district's federal allocations for programs identified by the following accounts:

- 5200 General purpose direct grants, unassigned;
- 6100 Special purpose, SPI, unassigned;
- 6138 Secondary vocational education, P.L. 98-524;
- 6146 Skills center;
- 6177 Mathematics and science;
- 6200 Direct special purpose grants; and
- 6246 Skills center, direct federal grant.

(3) Revenue accounts referenced in subsection (2) of this section are from the September 1986 accounting manual for public school districts in the state of Washington as revised September 1987. Revenues for programs identified by these account numbers and titles shall continue to qualify for inclusion in the excess levy base regardless of changes in account numbers or titles.

(4) For the purpose of administration of this chapter, the dollar amount of revenues for programs identified in

subsection (2)(b) and (c) of this section shall be derived from the following sources:

(a) Program revenues which are reported on the August Report 1197 for the prior school year are taken from that report. The amount of revenue included in the levy base equals the amount of the annual allotment due (Report 1197, column A). Allocations taken from the Report 1197 include the following:

- 4121 Education of handicapped children;
- 4155 Remediation;
- 4165 Transitional bilingual;
- 4174 Gifted and talented;
- 4198 Food services (state);
- 4199 Transportation - operations;
- 4499 Transportation reimbursement - depreciation;
- 6124 Handicapped supplemental, EHA, part B;
- 6127 Handicapped deinstitutionalized;
- 6138 Secondary vocational education, P.L. 98-524;
- 6146 Skills center;
- 6151 Remediation, ECIA chapter 1;
- 6153 Migrant, ECIA chapter 1;
- 6162 Refugee programs;
- 6176 Instructional aid, ECIA, chapter 2;
- 6177 Mathematics and science; and
- 6198 Food services (federal).

(b) Program revenues which are not reported on the August Report 1197 of the prior school year are taken from the F-195, school district budget, for the prior school year. Allocations taken from the F-195 include the following:

- 5200 General purpose direct grants, unassigned;
- 6100 Special purpose, SPI, unassigned;
- 6164 Bilingual, Title VII, P.L. 95-561 (SPI);
- 6167 Indian education, JOM;
- 6200 Direct special purpose grants;
- 6246 Skills center, direct federal grant;
- 6264 Bilingual, Title VII, P.L. 95-561 (direct);
- 6268 Indian education, P.L. 92-318; and
- 6998 USDA commodities.

#### NEW SECTION

WAC 392-139-320 DETERMINATION OF MAXIMUM EXCESS LEVY PERCENTAGE. In calendar year 1987 and each year thereafter, the superintendent of public instruction shall calculate each school district's maximum excess levy percentage for the next calendar year as provided in this section.

(1) For excess levy collections in calendar year 1988 each district's maximum excess levy percentage shall be the greater of twenty percent or the percentage calculated as follows:

(a) Multiply the district's excess levy base determined pursuant to WAC 392-139-310 by the district's base year levy percentage determined pursuant to WAC 392-139-240;

(b) Subtract the district's levy reduction funds for the calendar year of the levy pursuant to WAC 392-139-245; and

(c) Divide the result by the district's excess levy base.

(2) For excess levy collections in calendar year 1989 and thereafter each district's maximum excess levy percentage shall be the greater of twenty percent or the percentage calculated as follows:

(a) Multiply the district's excess levy base determined pursuant to WAC 392-139-310; by

(b) The lesser of thirty percent or the district's maximum excess levy percentage for the current calendar year;

(c) Subtract the district's levy reduction funds for the year of the levy determined pursuant to WAC 392-139-245; and

(d) Divide the result by the district's excess levy base.

#### NEW SECTION

WAC 392-139-330 DETERMINATION OF EXCESS LEVY AUTHORITY TRANSFERS FOR INTERDISTRICT COOPERATION PROGRAMS. In calendar year 1987 and each year thereafter, the superintendent of public instruction shall calculate the amount of levy authority transfers for the next calendar year for interdistrict cooperation programs as provided in this section. For students who during the prior school year resided in one school district (the sending district) but attended school in another school district (the serving district) pursuant to an interdistrict cooperation agreement authorized pursuant to RCW 28A.58.075 or 28A.58.245 and chapter 392-135 WAC, the serving district's excess levy authority for the next calendar year shall be reduced and the sending district's excess levy authority for the next calendar year shall be increased by the same amount which shall be determined as follows:

(1) Determine the serving district's excess levy authority for the next calendar year after adjustment for levy reduction funding but prior to adjustment for transfers of excess levy authority pursuant to this section and WAC 392-139-340;

(2) Divide the result by the total AAFTE students enrolled in the serving district in the prior school year as reported on the district's August Report 1191; and

(3) Multiply the result by the AAFTE students residing in the sending district and enrolled in the serving district in the prior school year pursuant to an interdistrict cooperation agreement as reported on forms P-223NR, and P-223H or 1067.

#### NEW SECTION

WAC 392-139-340 DETERMINATION OF EXCESS LEVY AUTHORITY TRANSFERS FROM HIGH SCHOOL DISTRICTS TO NONHIGH SCHOOL DISTRICTS. In calendar year 1987 and each year thereafter, the superintendent of public instruction shall determine the amount of excess levy authority transfers for the next calendar year from high school districts to nonhigh school districts as provided in this section. For students residing in a nonhigh school district

but enrolled in a high school district pursuant to chapter 28A.44 RCW and chapter 392-132 WAC, the high school district's excess levy authority shall be reduced and the nonhigh school district's excess levy authority shall be increased by the same amount. The amount of the excess levy authority transfer shall equal the estimated excess levy authority transfer for the current school year calculated pursuant to subsection (1) of this section adjusted by the amount of the nonhigh billing adjustment for the prior school year calculated pursuant to subsection (2) of this section.

(1) The estimated excess levy authority transfer for the current school year is determined as follows:

(a) Calculate the high school district's excess levy authority for the next calendar year after adjustment for levy reduction funding but prior to adjustments for transfers of excess levy authority pursuant to this section and WAC 392-139-330;

(b) Divide the result by the estimated total AAFTE students enrolled in the high school district in the current school year as reported to the superintendent of public instruction on form P-213; and

(c) Multiply the result by the estimated AAFTE students residing in the nonhigh school district and enrolled in the high school district for the current school year pursuant to chapter 28A.44 RCW as reported on form P-213.

(2) The amount of the nonhigh billing adjustment for the prior school year is determined as follows:

(a) Determine the high school district's certified excess levy for the current calendar year;

(b) Divide the result by the high school district's AAFTE resident enrollment for the prior school year determined pursuant to WAC 392-139-235 using AAFTE student enrollments reported on the August Report 1191 and forms P-213, P-223NR, and P-223H or 1067; and

(c) Multiply the result by the number of AAFTE students determined as follows:

(i) Determine the actual AAFTE students residing in the nonhigh school district and enrolled in the high school district in the prior school year pursuant to chapter 28A.44 RCW as reported in the current calendar year on form P-213; and

(ii) Subtract the estimated AAFTE students from the nonhigh school district enrolled in the high school district in the prior school year pursuant to chapter 28A.44 RCW as reported on form P-213 for the prior calendar year.

#### DEFINITIONS FOR LOCAL EFFORT ASSISTANCE

##### NEW SECTION

WAC 392-139-600 DEFINITION—ADJUSTED ASSESSED VALUATION. As used in this chapter, the term "adjusted assessed valuation" means the assessed valuation for excess levy purposes adjusted to one hundred percent by the county indicated ratio determined by the department of revenue pursuant to RCW 84.48.075.

##### NEW SECTION

WAC 392-139-605 DEFINITION—DISTRICT TEN PERCENT LEVY AMOUNT. As used in this chapter, "district ten percent levy amount" means the dollar amount determined for each school district as follows:

(1) Perform the calculations pursuant to WAC 392-139-300 (2) (a) and (b) to arrive at the district excess levy authority after excess levy authority transfers but before subtracting maximum local effort assistance;

(2) Divide the result by the district maximum excess levy percentage calculated pursuant to WAC 392-139-320; and

(3) Multiply the result by ten percent.

##### NEW SECTION

WAC 392-139-610 DEFINITION—DISTRICT TEN PERCENT LEVY RATE. As used in this chapter, "district ten percent levy rate" means the district ten percent levy amount divided by the district adjusted assessed valuation for taxes collected in the current calendar year.

##### NEW SECTION

WAC 392-139-615 DEFINITION—STATE-WIDE AVERAGE TEN PERCENT LEVY RATE. As used in this chapter, "state-wide average ten percent levy rate" means ten percent of the total excess levy bases for the next calendar year determined pursuant to WAC 392-139-310 summed for all school districts divided by the total adjusted assessed valuation for all school districts for taxes collected in the current calendar year.

##### NEW SECTION

WAC 392-139-620 DEFINITION—ELIGIBLE DISTRICT. As used in this chapter, "eligible district" means a school district whose ten percent levy rate exceeds the state-wide average ten percent levy rate.

##### NEW SECTION

WAC 392-139-625 DEFINITION—STATE MATCHING RATIO. As used in this chapter, "state matching ratio" means the ratio calculated for each school district as follows:

(1) Subtract the state-wide average ten percent levy rate from the district ten percent levy rate; and

(2) Divide the result by the state-wide average ten percent levy rate.

#### DETERMINATION OF LOCAL EFFORT ASSISTANCE

##### NEW SECTION

WAC 392-139-650 DETERMINATION OF LOCAL EFFORT ASSISTANCE—GENERAL. In calendar year 1989 and each year thereafter, eligible districts shall be provided local effort assistance funds as provided in section 102, chapter 2, Laws of 1987 1st ex. sess.

Eligibility for local effort assistance, maximum local effort assistance for each eligible district, and local effort assistance allocations to each eligible district shall be established annually in accordance with the following general procedures:

(1) Only figures and data gathered and approved by the superintendent of public instruction shall be used.

(2) The superintendent of public instruction shall calculate each district's maximum local effort assistance, state matching ratio, and projected local effort assistance each year for the next calendar year pursuant to this chapter.

(3) The superintendent of public instruction shall calculate the actual amount of each eligible district's local effort assistance allocations in the calendar year of the allocations pursuant to WAC 392-139-670.

(4) If calculations of maximum local effort assistance or local effort assistance allocations made pursuant to this chapter are dependent on factors which are not finalized at the time of the calculations, the superintendent of public instruction shall base the calculations on estimates at the time of the calculations.

(5) In calculations of local effort assistance performed pursuant to this chapter, dollar amounts shall be rounded to the nearest whole dollar, ratios shall be rounded to four decimal places, percentages shall be rounded to two decimal places, and levy rates shall be rounded to six decimal places.

(6) The superintendent of public instruction shall annually provide all districts with the appropriate calculation procedures for the purposes of this chapter.

**NEW SECTION**

**WAC 392-139-660 DETERMINATION OF MAXIMUM LOCAL EFFORT ASSISTANCE.** In calendar year 1988 and each year thereafter, the superintendent of public instruction shall calculate maximum local effort assistance for each eligible district for the next calendar year as provided in this section.

(1) Maximum local effort assistance shall be calculated as follows:

(a) Subtract the state-wide average ten percent levy rate for the next calendar year from the district ten percent levy rate for the next calendar year;

(b) Divide the result by the district ten percent levy rate for the next calendar year; and

(c) Multiply the result by the district ten percent levy amount for the next calendar year.

(2) Notwithstanding subsection (1) of this section maximum local effort assistance for calendar year 1989 is reduced to reflect partial funding of local effort assistance by the legislature pursuant to section 212, chapter 2, Laws of 1987 1st ex. sess. Maximum local effort assistance for 1989 calculated pursuant to this subsection shall be based on the superintendent of public instruction's September estimate of the percentage of full funding for local effort assistance in 1989. Maximum local effort assistance calculated pursuant to this subsection shall be for the purpose of reducing excess levy authority determined pursuant to this chapter and shall not be construed to limit the actual amount of a district's local effort assistance allocations determined pursuant to

WAC 392-139-670. Maximum local effort assistance for each eligible district for calendar year 1989 shall be determined as follows:

(a) Calculate fifty-five percent of the district's maximum local effort assistance pursuant to subsection (1) of this section;

(b) Multiply the result by the proration percentage determined as follows:

(i) Divide five million dollars by;

(ii) Fifty-five percent of the estimated total amount of local effort assistance allocations to all eligible school districts for calendar year 1989 using the superintendent of public instruction's estimate of certified excess levies for 1989 based on voter approved excess levies and excess levies planned for 1989; and

(c) Add to the result of subsection (2)(b) of this section an amount equal to forty-five percent of the district's maximum local effort assistance calculated pursuant to subsection (1) of this section.

**NEW SECTION**

**WAC 392-139-665 REPORTING OF CERTIFIED EXCESS LEVY AMOUNTS.** No later than the third Wednesday in December of 1988 and each year thereafter, each educational service district shall report to the superintendent of public instruction the certified excess levies for the next calendar for school districts in the educational service district. Such report shall include copies of the documents used to certify excess levies to the board or boards of county commissioners pursuant to RCW 84.52.020.

**NEW SECTION**

**WAC 392-139-670 LOCAL EFFORT ASSISTANCE ALLOCATIONS.** In calendar year 1989 and each year thereafter, the superintendent shall allocate local effort assistance to each eligible district as provided in this section.

(1) The dollar amount of local effort assistance allocated to each eligible district for the calendar year shall equal the lesser of the following amounts:

(a) The district's certified excess levy for the calendar year as reported to the superintendent of public instruction pursuant to WAC 392-139-665 times the district's state matching ratio for the calendar year calculated pursuant to WAC 392-139-625; or

(b) The district's maximum local effort assistance for the calendar year calculated pursuant to WAC 392-139-660(1).

(2) The superintendent of public instruction shall allocate local effort assistance due to each eligible district fifty-five percent on or before June 30 and the remaining forty-five percent on or before December 31. Allocations shall be made through monthly apportionment payments according to the following schedule:

January	10.5%	
February	10.5%	
March	10.5%	
April	10.5%	
May	6.5%	
June	6.5%	First six months 55%

July	8.5%	
August	8.5%	
September	7.5%	
October	7.5%	
November	5.5%	
December	7.5%	Second six months 45%
Total	100.0%	

(3) Notwithstanding subsections (1) and (2) of this section, the first six payments of local effort assistance in calendar year 1989 shall be reduced to reflect partial funding of local effort assistance by the legislature pursuant to section 212, chapter 2, Laws of 1987 1st ex. sess. The first six local effort assistance payments to each eligible school district in calendar year 1989 shall equal the amount determined as follows:

(a) Calculate a proration percentage as follows:

(i) Divide five million dollars by;

(ii) Fifty-five percent of the total amount of local effort assistance allocations to all eligible districts for calendar year 1989 as determined pursuant to WAC 392-139-300 through 392-139-660 and subsection (1) of this section assuming full funding of local effort assistance and using certified excess levy amounts known at the time of the calculation.

(b) Determine the amount that the district would receive for local effort assistance pursuant to WAC 392-139-300 through 392-139-660 and subsection (1) of this section assuming full funding of local effort assistance and using certified excess levy amounts at the time of the calculation;

(c) Multiply the result of (b) of this subsection by the percentage of local effort assistance due for the month as shown on the schedule in subsection (2) of this section; and

(d) Multiply the result of (c) of this subsection by the proration percentage calculated in subsection (a) of this subsection.

## NOTIFICATION PROVISIONS

### NEW SECTION

**WAC 392-139-900 NOTIFICATION OF AMOUNTS CALCULATED.** The superintendent of public instruction shall notify school districts of amounts calculated pursuant to this chapter as provided in this section.

(1) Prior to October 7, 1987, the superintendent of public instruction shall notify each school district, and the county assessor, and chairman of the board of county commissioners of the county in which the district is headquartered of the results of calculations made for the district pursuant to this chapter for the 1988 calendar year including the following:

(a) Excess levy authority; and

(b) Maximum excess levy percentage.

(2) Prior to the first Wednesday following the first Monday in October of each year beginning in 1988, the superintendent of public instruction shall notify each school district and the county assessor and chairman of the board of county commissioners of the county in

which the district is headquartered of the results of calculations made for the district pursuant to this chapter for the next calendar year including the following:

(a) Excess levy authority;

(b) Maximum excess levy percentage;

(c) Eligibility for local effort assistance; and

(d) If eligible for local effort assistance:

(i) Maximum local effort assistance;

(ii) State matching ratio;

(iii) Certified excess levy necessary to qualify for maximum local effort assistance; and

(iv) Projected local effort assistance allocation based on the superintendent of public instruction's estimate of certified excess levies for the next calendar year at the time of the notice.

(3) At the time of the January apportionment payment in calendar year 1989 and each year thereafter, the superintendent of public instruction shall notify each eligible district of the amount of the district's local effort assistance allocations for the year determined pursuant to WAC 392-139-670.

### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-139-010 ESTABLISHMENT OF THE MAXIMUM DOLLAR AMOUNT OF SCHOOL DISTRICT LEVIES—GENERAL.

WAC 392-139-016 DEFINITIONS.

WAC 392-139-017 ADDITIONAL DEFINITIONS.

WAC 392-139-018 ADDITIONAL DEFINITIONS.

WAC 392-139-021 DETERMINATION OF EXCESS GENERAL FUND LEVY CAPACITY ATTRIBUTABLE TO BASIC EDUCATION ALLOCATION.

WAC 392-139-022 DETERMINATION OF EXCESS GENERAL FUND LEVY CAPACITY ATTRIBUTABLE TO LESS THAN ONE HUNDRED PERCENT FUNDING OF THE BASIC EDUCATION ALLOCATION FORMULA.

WAC 392-139-026 DETERMINATION OF ADDITIONAL EXCESS GENERAL FUND LEVY CAPACITY.

WAC 392-139-031 DETERMINATION OF EXCESS GENERAL FUND LEVY CAPACITY ATTRIBUTABLE TO STATE-FUNDED CATEGORICAL PROGRAMS.

WAC 392-139-036 DETERMINATION OF EXCESS GENERAL FUND LEVY CAPACITY TO BE TRANSFERRED FROM THE NONRESIDENT SCHOOL DISTRICT TO THE RESIDENT SCHOOL DISTRICT FOR INTERDISTRICT CO-OPERATION PROGRAMS.

WAC 392-139-037 DETERMINATION OF EXCESS GENERAL FUND LEVY CAPACITY TO BE TRANSFERRED FROM THE HIGH SCHOOL DISTRICT TO THE NONHIGH SCHOOL DISTRICT.

WAC 392-139-038 NOTIFICATION OF MAXIMUM LEVY COLLECTION AMOUNTS.

**WSR 88-03-008**

**ADOPTED RULES**

**HIGHER EDUCATION COORDINATING BOARD**

[Order 1/88, Resolution No. 87-81—Filed January 8, 1988]

Be it resolved by the Higher Education Coordinating Board, acting at the Spokane Higher Education Center, West 705 1st, Spokane, WA, that it does adopt the annexed rules relating to implementation of SHB 857, chapter 437, Laws of 1987, the future teacher conditional scholarship program (chapter 28B.102 RCW), chapter 250-65 WAC.

The following general regulations govern the administration of conditional scholarships awarded to students planning to enter the teaching profession.

This action is taken pursuant to Notice No. WSR 87-20-093 filed with the code reviser on October 7, 1987. 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.102 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED December 16, 1987.

By A. Robert Thoeny  
Executive Director

**STATE OF WASHINGTON**

**FUTURE TEACHER CONDITIONAL  
SCHOLARSHIP PROGRAM**

**RCW 28B.102**

**WAC 250-65**

- WAC 250-65-010 Purpose
- WAC 250-65-020 Program Definitions
- WAC 250-65-030 Eligibility Criteria
- WAC 250-65-040 Screening and Selection of Recipients
- WAC 250-65-050 Administration
- WAC 250-65-060 Control of Funds

**NEW SECTION**

**WAC 250-65-010 PURPOSE.** The purpose of this act is to encourage students with outstanding academic records to enter the teaching profession; and, further, to recruit students who can act as role models for children including those from targeted ethnic minorities.

**NEW SECTION**

**WAC 250-65-020 PROGRAM DEFINITIONS.**  
(1) "Conditional scholarship" means a loan that is forgiven in whole or in part if the recipient renders service as a teacher in the public schools of this state. A student's acceptance of one or more disbursements of a

scholarship, regardless of its value, creates a contractual obligation on the part of the student to teach for a period of ten years in a qualifying school, or incur an obligation to repay all or part of the scholarship.

(2) "Institution of higher education" or "institution" shall mean any public university, college, community college, or vocational-technical institute operated by the state of Washington political subdivision thereof, or any other university, college, school or institute in the state of Washington offering instruction beyond the high school level which is a member institution of the Northwest Association of Schools and Colleges and, if such institution agrees to participate in the program in accordance with all applicable rules and regulations. Any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of the above named accrediting association.

(3) "Board" means the higher education coordinating board. When a duty or responsibility of the Board is referenced in these regulations, the authority needed to discharge that responsibility lies with the Executive Director or his or her designee.

(4) "Public school" means an elementary school, a middle school, junior high school, or high school within the public school system referred to in Article IX of the state constitution.

(5) "Forgiven" or "to forgive" or "forgiveness" means that a portion of the student's loan is reduced through the rendering of service as a teacher at a public school in the state of Washington in lieu of monetary repayment.

(6) "Satisfied" means paid-in-full either through the rendering of service or monetary repayment in fulfillment of the student's contractual obligation.

(7) "Participant" means an eligible student who has received one or more disbursements under this program.

(8) "Targeted ethnic minority" means a group of Americans with a common ethnic or racial heritage selected by the board for program consideration due to societal concerns such as high drop out rates or low rates of college participation by members of this group. Wherever possible students selected for participation in the conditional scholarship program should be able to serve as role models for children and youth from targeted ethnic minorities.

(9) "Washington resident" or "resident student" means an individual who satisfies the requirements of RCW 28B.15.012 through 28B.15.015 and board-adopted rules and regulations pertaining to the determination of residency.

(10) "Needy student" shall mean a post-high school student of an institution of higher learning as defined in RCW 28B.10.802(1) who demonstrates to the board the financial inability, either through the student's parents, family and/or personally, to meet the total cost of board, room, books and tuition and incidental fees for any semester or quarter.

(11) "Financial need" shall be the difference between the budgetary cost to the student attending an institution

of postsecondary education and the total applicant resources which the institutional financial aid officer determines can reasonably be expected to be available to the student for meeting such costs.

(12) "Budgetary cost" of attending an institution shall consist of that amount required to support the individual and his or her dependents during the period in which that individual is enrolled as a student. Budgets will reflect the latest recognized cost levels for room and board, transportation, books, supplies, personal expenses, and other cost factors deemed necessary for consideration, consistent with WAC 250-65-040 section 3(a).

(13) "Total applicant resources" for the dependent student shall mean the sum of the amounts which reasonably may be expected from the student and his or her spouse inclusive of expected summer savings to meet the student's cost of education, and the amount which reasonably may be expected to be made available to the student by his or her parents for such purpose. For the self-supporting student total applicant resources shall mean the amount which reasonably may be expected from the student and his or her spouse inclusive of expected summer savings to meet the student's cost of education.

(14) "Dependent student" shall mean any post-high school student attending an eligible institution of post-secondary education who does not qualify as a self-supporting student in accordance with subsection (15) of this section.

(15) "Self-supporting student" shall be one who has established a bona fide independent relationship and who demonstrates compliance with criteria for determining self-supporting status as contained in the program guidelines.

#### NEW SECTION

**WAC 250-65-030 ELIGIBILITY CRITERIA.** (1) Student Eligibility. In order to be eligible for a conditional scholarship under this program the student must:

(a) Be registered for a minimum of ten (10) credit hours or the equivalent, at the time of disbursement, during any term for which a scholarship disbursement is issued.

(i) Calculation of Equivalency. In recognition of the fact that participating institutions have different academic calendars and apply different full-time enrollment definitions, the ten credit hour equivalent standard is defined as follows: as ten credit hours is 5/6's (10/12) of the minimum twelve credit hours required for full time undergraduate enrollment, a course load that by institutional standard is the equivalent of 5/6's of a minimum full time course load satisfies the threshold course load requirement of the Future Teacher Conditional Scholarship program.

(b) Demonstrate achievement of at least a 3.30 cumulative grade point average for students entering an eligible institution of higher education directly from high school; or maintain at least a 3.00 grade point average or the equivalent for each academic year in an institution of higher education, calculated at the end of each academic year. In the case of extenuating circumstances,

the board may waive the grade point average requirement, with cause.

(c) Be classified as a resident student of the state of Washington for tuition and fee purposes.

(d) Be capable, in the opinion of the institution, of maintaining good standing in a course of study while funded by the program, and demonstrate satisfactory progress toward degree or certificate completion.

(e) Have declared an intention to complete an approved preparation program as determined by the institution leading to initial teacher certification or required for earning an additional endorsement, or a college or university graduate who is registered for at least ten credit hours per term, or the equivalent, and is seeking an additional teaching endorsement or initial teaching certification.

(f) Not be pursuing a degree in theology.

(2) While evidence of documented financial need is not a prerequisite for program participation, the board may include need as an element of the criteria for the screening and selection of recipients for approximately half of the program's recipients.

(3) Criteria for institutional determination of financial need and the making of awards:

(a) Budgetary costs will be determined by the institution subject to approval by the higher education coordinating board.

(b) Total applicant resources shall be determined according to the uniform methodology system of need analysis. Institutional financial aid officers may make reasonable adjustments to the computed total applicant resources if individual circumstances warrant such adjustments. In addition, non-liquid assets in the form of equity in the primary residence and net worth of business or farm may be disregarded in the computation of total applicant resources.

(c) The conditional scholarship, when offered in conjunction with other forms of governmentally provided student financial assistance, shall be designed in such a manner that the sum total of financial aid awarded any one student will not exceed the difference between the total applicant's resources and the budgetary cost of education.

(2) Institutional Eligibility Criteria.

(a) Each institution must have a policy relating to the continuance of aid for students who enroll in but do not complete the number of credit or clock hours required to maintain satisfactory progress toward completion of his or her degree or program objective. The institution must submit its policy to the board annually for approval.

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

#### NEW SECTION

**WAC 250-65-040 SCREENING AND SELECTION OF RECIPIENTS.** Whenever possible in selecting conditional scholarship recipients, the board will give preference to qualified candidates who wish to become future teachers who fulfil both purposes of the statute: (1) recruitment of students who have distinguished themselves through outstanding academic achievement

and (2) students who can act as role models for children and youth including those from targeted ethnic minorities.

(1) Program Advisory and Screening Committee. The board will annually appoint an advisory committee to advise the board on matters of program administration including, but not limited to, scholarship screening and selection criteria and procedures, fund raising, program publicity, and efforts to recruit minority students. The advisory committee shall also serve as a screening committee in assisting the board in selecting the students to receive conditional scholarships.

(2) Selection of Recipients.

(a) Assuming program eligibility criteria is met, the following additional selection criteria will be employed by the board in ranking candidates and awarding conditional scholarships:

(i) Superior scholastic achievement.

(ii) Leadership ability.

(iii) Community contributions.

(iv) Ability to act as a role model for targeted ethnic minority students.

(v) Brief statement evidencing the student's commitment to teaching and evidence of promise as a future teacher.

(vi) Financial need (may be considered for approximately half of the recipients).

(vii) Eligibility for renewal of conditional scholarship.

(3) Renewal Scholarships. As a priority in awarding conditional scholarships, the board may continue to make awards to an eligible recipient for a maximum of five academic years.

**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.

## NEW SECTION

WAC 250-65-050 ADMINISTRATION. (1) Administering Agency. The higher education coordinating board shall administer the Future Teacher Conditional Scholarship program. The staff of the higher education coordinating board, under the direction of the executive director, will manage the administrative functions relative to the program. The board shall have the following administrative responsibilities, encompassed within the board's enumerated powers and duties:

(a) Enter into agreements with participating institutions, and billing and collection agencies as may be necessary.

(b) Select students to receive conditional scholarships, with the assistance of a screening committee composed of teachers and leaders in government, business, and education.

(c) Adopt necessary rules and guidelines.

(d) Publicize the program.

(e) Collect and manage repayments from students who do not meet their teaching obligations.

(f) Solicit and accept grants and donations from public and private sources for the program.

## NEW SECTION

WAC 250-65-060 CONTROL OF FUNDS. The higher education coordinating board may award conditional scholarships to eligible students from the funds appropriated to the board for this purpose, or from any private donations, or any funds given to the board for this program.

(1) Scholarship amounts:

(a) The amount of the conditional scholarship awarded an individual shall not exceed three thousand dollars per academic year. Students are eligible to receive conditional scholarships for a maximum of five years. The total amount of such scholarships to an eligible student shall not exceed fifteen thousand dollars (\$15,000). The duration of service obligation does not vary with the value of the scholarship(s).

(2) The scholarship recipient shall enter into an agreement with the higher education coordinating board agreeing to comply with the rules, regulations, and guidelines of the conditional scholarship program. The agreement shall serve as the legal document verifying the recipient's understanding of the obligation to repay the conditional scholarship if teaching service is not fulfilled.

(3) Repayment terms:

(a) Participants in the conditional scholarship program incur an obligation to repay the conditional scholarship, with interest, unless they teach for ten years in the public schools of the state of Washington, under rules adopted by the board.

(b) The terms of the repayment, including deferral of the interest, shall be consistent with the terms of the federal guaranteed loan program.

(c) The period for repayment shall be ten years, with payments accruing quarterly commencing nine months from the date the participant completes or discontinues the course of study.

(d) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant teaches in a public school until the entire repayment obligation is satisfied or the borrower ceases to teach at a public school in this state. Should the participant cease to teach at a public school in this state before the participant's repayment obligation is completed, payments on the unsatisfied portion of the principal and interest shall begin the next payment period and continue until the remainder of the participant's repayment obligation is satisfied.

(3) Collection of repayments:

(a) The board is responsible for collection of repayments made and shall exercise due diligence in such collection, maintaining all necessary records to ensure that maximum repayments are made.

(b) The board is responsible to forgive all or parts of such repayments under the criteria established by the board and shall maintain all necessary records of forgiven payments.

(4) Receipts:

(a) Receipts from the payment of the principal or interest or any other subsidies to which the board as administrator is entitled, which are paid by or on behalf of

participants under this section, shall be deposited with the board and shall be used to cover the costs of granting the conditional scholarships, maintaining necessary records and making collections. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant conditional scholarships to eligible students.

**WSR 88-03-009**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 88-02—Filed January 8, 1988]

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

I, Joseph R. Blum, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is dogfish set net restrictions in Port Madison are necessary to prevent harvest of untargeted species and protection for true cod in Agate Pass is necessary only during those periods when concentrations of cod are present.

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 January 7, 1988.

By Ray Ryan  
 for Joseph R. Blum  
 Director

NEW SECTION

*WAC 220-48-01500A BEAM TRAWL OPENING. Notwithstanding the provisions of WAC 220-48-015, effective immediately until further notice it is unlawful to fish for or possess bottomfish taken with beam trawl gear from the waters of Marine Fish-Shellfish Management and Catch Reporting Area 25C from February 1st through April 14th only.*

NEW SECTION

*WAC 220-48-02900B SET NET—DOGFISH—CLOSED AREA. Notwithstanding the provisions of WAC 220-48-029, effective immediately until further notice it is unlawful to fish for or possess dogfish taken with set net gear from those waters of Puget Sound Marine Fish-Shellfish Management and Catch Reporting*

*Area 26A west of a line from Point Monroe to the pier at Indianola.*

**WSR 88-03-010**  
**NOTICE OF PUBLIC MEETINGS**  
**BOARD FOR VOLUNTEER FIREMEN**  
 [Memorandum—January 7, 1988]

The Board for Volunteer Firemen will next meet on January 20, 1988, at 9:00 a.m. in Room 209 of the Olympia Forum Building, 605 11th Avenue S.E., Olympia, Washington.

**WSR 88-03-011**  
**PROPOSED RULES**  
**SUPERINTENDENT OF PUBLIC INSTRUCTION**  
 [Filed January 8, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning project even start, chapter 392-220 WAC;

that the agency will at 9:00 a.m., Monday, February 29, 1988, in the State Board Room, Superintendent of Public Instruction, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Tuesday, March 1, 1988.

The authority under which these rules are proposed is RCW 28A.130.014(5).

The specific statute these rules are intended to implement is E2SHB 456, sections 104 through 109.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Monday, February 29, 1988.

Dated: January 8, 1988

By: Frank B. Brouillet

Superintendent of Public Instruction

**STATEMENT OF PURPOSE**

Rule: Chapter 392-220 WAC.

Rule Section(s): WAC 392-220-005, 392-220-010, 392-220-015, 392-220-020, 392-220-025, 392-220-030, 392-220-035, 392-220-040, 392-220-045, 392-220-050, 392-220-055, 392-220-060, 392-220-065, 392-220-070, 392-220-075, 392-220-080, 392-220-085, 392-220-090, 392-220-095, 392-220-100, 392-220-105, 392-220-110, 392-220-115, 392-220-120, 392-220-125, 392-220-130, 392-220-135, 392-220-140, 392-220-145, 392-220-150 and 392-220-155.

Statutory Authority: RCW 28A.130.014(5).

Purpose of the Rule(s): To enhance the ability of illiterate and semiliterate parents to support their children in the learning process by providing them with literacy, basic skills, and parenting skills instruction.

Summary of the New Rule(s) and/or Amendments: The regulations establish the eligibility criteria, eligible

activities, and implementation procedures for project even start.

Section Analysis: WAC 392-220-005 states authority for the rules; 392-220-010 states the purpose of the rules; 392-220-015 states public policy goals of project even start; 392-220-020 defines project even start; 392-220-025 defines child development knowledge; 392-220-030 defines other eligible program components; 392-220-035 defines eligible grantee; 392-220-040 defines eligible parents; 392-220-045 defines basic skills; 392-220-050 defines standardized tests; 392-220-055 defines transportation; 392-220-060 defines child care; 392-220-065 defines directly necessary activities; 392-220-070 assures nonsupplanting of funds for adult literacy programs; 392-220-075 assures cooperation with DSHS regarding public assistance reports; 392-220-080 assures submission of annual evaluation report; 392-220-085 establishes reporting requirements for grantees; 392-220-090 prescribes application procedures for project even start grants; 392-220-095 assures cooperation with the state auditor; 392-220-100 assures service to targeted groups; 392-220-105 establishes information source for date of receipt of even start project proposals; 392-220-110 prescribes the composition of the Even Start Advisory Committee; 392-220-115 prescribes duties of the Even Start Advisory Committee; 392-220-120 establishes priority projects; 392-220-125 requires coordination of even start programs with programs serving participants' children; 392-220-130 establishes the evaluation criteria for project even start programs; 392-220-135 establishes performance standards for project even start programs; 392-220-140 establishes limits for administrative costs; 392-220-145 prescribes liability limits and need for liability insurance; 392-220-150 requires bonding for program personnel from nonpublic entities; and 392-220-155 establishes the maximum grant award per participant.

Reasons Which Support the Proposed Action(s): Regulations are in response to legislation passed in 1987, E2SHB 456, sections 104 through 109, project even start.

Person or Organization Proposing the Rule(s): SBE, government.

Agency Personnel Responsible for Drafting: Richard Michael Wilson, SPI, 3-2298; Implementation: Suzanne M. Griffin, SPI, 6-2263; and Enforcement: Charles R. Marshall, SPI, 3-1880.

Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

- 392-220-005 Authority.
- 392-220-010 Purpose.
- 392-220-015 Statement of public policy goals.
- 392-220-020 Definition—Project Even Start.
- 392-220-025 Definition—Child development knowledge.
- 392-220-030 Definition—Other eligible program components.
- 392-220-035 Definition—Eligible grantee.
- 392-220-040 Definition—Eligible parents.

- 392-220-045 Definition—Basic Skills.
- 392-220-050 Definition—Standardized Tests.
- 392-220-055 Definition—Transportation.
- 392-220-060 Definition—Child care.
- 392-220-065 Definition—Directly necessary activities.
- 392-220-070 Assurance of nonsupplanting of Federal Funds for adult literacy programs with state funds for Project Even Start.
- 392-220-075 Assurance of cooperation with existing programs.
- 392-220-080 Assurance of submission of annual evaluation report.
- 392-220-085 Establishment of reporting requirements for grantees.
- 392-220-090 Prescription of application procedures for funds for Project Even Start programs.
- 392-220-095 Assurance of cooperation with the state auditor.
- 392-220-100 Assurance of service to targeted groups.
- 392-220-105 Establishment of information source for date of receipt for initial proposals.
- 392-220-110 Prescription of the composition of the Project Even Start Advisory Committee.
- 392-220-115 Prescription of duties of the Even Start Advisory Committee.
- 392-220-120 Establishment of priority projects.
- 392-220-125 Requirement of coordination of Even Start programs with programs serving participants' children.
- 392-220-130 Establishment of the selection criteria for Project Even Start proposals.
- 392-220-135 Establishment of performance standards for Project Even Start Programs.
- 392-220-140 Establishment of limits and the need for liability insurance.
- 392-220-145 Prescription of liability limits and the need for liability insurance.
- 392-220-150 Requirement of bonding for program personnel of non-public entities.
- 392-220-155 Establishment of the maximum grant award per participant.

Chapter 392  
Grant Program—Project Even Start

NEW SECTION

WAC 392-220-005 AUTHORITY. The authority for this chapter is RCW 28A.130.014(5) which authorizes the superintendent of public instruction to promulgate rules for the establishment and administration of project even start.

NEW SECTION

WAC 392-220-010 PURPOSE. The purpose of this chapter is to set forth policies and procedures for the administration of project even start, including the establishment of eligibility criteria for the award of grants to eligible grantees.

NEW SECTION

WAC 392-220-015 PUBLIC POLICY GOALS OF PROJECT EVEN START. The public policy goals of project even start are to:

- (1) Recognize that parents can be the most effective teachers for their children.
- (2) Provide illiterate or semiliterate parents with opportunities to acquire basic skills and child development knowledge that will enhance their ability to assist and support their children in the learning process.
- (3) Enhance children's learning experiences in the formal education environment by providing children with the motivation and positive home environment which contributes to enhanced academic performance.

NEW SECTION

WAC 392-220-020 PROJECT EVEN START—DEFINITION. As used in this chapter, the term "project even start" means a program primarily designed to provide illiterate or semiliterate parents with basic skills instruction and which may include instruction in child development knowledge and other eligible program components as provided in WAC 392-220-030.

NEW SECTION

WAC 392-220-025 CHILD DEVELOPMENT KNOWLEDGE—DEFINITION. As used in this chapter, the term "child development knowledge" means information about characteristics of child growth, including differences in development, and the role of child-parent interaction in supporting the developmental process.

NEW SECTION

WAC 392-220-030 OTHER ELIGIBLE PROGRAM COMPONENTS—DEFINITION. As used in this chapter, the term "other eligible program components" means one or more of the following:

- (1) Transportation.
- (2) Child care.
- (3) Other activities determined by the superintendent of public instruction to be directly necessary activities to accomplish the purpose of project even start.

NEW SECTION

WAC 392-220-035 ELIGIBLE GRANTEE—DEFINITION. As used in this chapter "eligible grantee" means any public agency or private non-sectarian program or organization.

NEW SECTION

WAC 392-220-040 ELIGIBLE PARENTS—DEFINITION. As used in this chapter, the term "eligible parents" means one or more custodial parents, which may be a biological or foster parent, a guardian, or a person with whom a child resides, and who meets the following two part test:

- (1) Is illiterate or semi-literate, i.e., has less than an eighth grade ability in one or more basic skill areas: PROVIDED, That in the case of parents whose primary language is other than English, eighth grade ability shall be determined on the basis of performing basic skill activities in their native language.
- (2) Has a child enrolled in one of the following programs:
  - (a) State early childhood education and assistance program.
  - (b) Federal head start program
  - (c) State or federally funded elementary school—i.e., grades K-8—basic skills program serving students who have scored below the national average of the basic skill areas of reading, language arts, or mathematics.
  - (d) A cooperative nursery—e.g. preschool or day care—at a community college or vocational technical institute.

NEW SECTION

WAC 392-220-045 BASIC SKILLS—DEFINITION. As used in this chapter, the term basic skills means reading, language arts, and mathematics, including the readiness skills associated with such skills.

NEW SECTION

WAC 392-220-050 STANDARDIZED TEST—DEFINITION. As used in this chapter, the term "standardized test" means one of the following:

- (1) Test of adult basic education (TABE)
- (2) Adult basic learning examination (ABLE)
- (3) Any other recognized test of adult basic skills that has received the prior approval of the superintendent of public instruction.

NEW SECTION

WAC 392-220-055 TRANSPORTATION—DEFINITION. As used in this chapter, the term "transportation" means transport of the eligible parents or children thereof provided directly by the eligible grantee or reimbursed by such eligible grantee pursuant to the allowances provided in WAC 392-141-190(2).

NEW SECTION

WAC 392-220-060 CHILD CARE—DEFINITION. As used in this chapter, the term "child care" means adult supervision of children of eligible parents provided directly by the eligible grantee or reimbursed by such eligible grantee pursuant to a written contract either with the provider of the day care or with the eligible parent.

NEW SECTION

WAC 392-220-065 DIRECTLY NECESSARY ACTIVITIES—DEFINITION. As used in this chapter, the term "directly necessary activities" means reasonable services and activities that are needed to remove barriers that inhibit participation of eligible parents in the even start project.

NEW SECTION

WAC 392-220-070 ASSURANCE OF NONSUPPLANTING—PROGRAM STANDARD. No application for an even start project grant shall be approved by the superintendent of public instruction unless the authorized agent of the eligible grantee provides assurance to the superintendent of public instruction of compliance with RCW 28A.130.014(4)—i.e., "state funds . . . shall be used solely to expand and complement, but not supplant, federal funds for adult literacy programs."

NEW SECTION

WAC 392-220-075 ASSURANCE OF COOPERATION WITH DSHS REGARDING PUBLIC ASSISTANCE REPORTS—PROGRAM STANDARD. No application for an even start project grant shall be approved by the superintendent of public instruction unless the authorized agent of the eligible grantee agrees to assist eligible parents in any reporting requirement of the department of social and health services related to compliance with RCW 28A.130.014(3)—i.e., "fulfillment of . . . work and training obligation for the receipt of public assistance."

NEW SECTION

WAC 392-220-080 ASSURANCE TO SUBMIT ANNUAL EVALUATION REPORT TO SPI. No application for an even start project grant shall be approved by the superintendent of public instruction unless the authorized agent of the eligible grantee agrees to submit to the superintendent of public instruction on a date established by the superintendent of public instruction an annual evaluation report which shall contain the following:

- (1) Progress made by adult enrolled as evidenced by:
  - (a) Grade equivalent or standardized test scores for basic skills at beginning and end of enrollment in even start programs.
  - (b) Data on length of enrollment and frequency of attendance.
  - (c) Total number of instructional hours actually received in literacy, basic skills, and parenting skills.
- (2) Effect of parents' participation in even start on children of enrollees as evidenced by:
  - (a) Comparative data on parent participation in programs in which children are enrolled.
  - (b) Comparative data (e.g., teachers' observations) on children's behavior in programs in which they are enrolled.
  - (c) Summary impressions on the most effective methods and materials for serving specific populations.
  - (d) Observations regarding the effect of support services on program participation.
  - (e) Recommendations for program improvements.
  - (f) Data on demand for even start programs in service area versus number of participants enrolled.
  - (g) Such additional information as the superintendent of public instruction shall request related to the effectiveness of the funded project even start.

NEW SECTION

WAC 392-220-085 REPORTING REQUIREMENTS. Successful applicants for project even start will be required to report fiscal, program, and client data to the superintendent of public instruction upon request.

At a minimum, applicants are required to ensure that:

- (1) Financial systems allow for effective control and accountability for all program funds, property and other assets, including use for authorized purposes only.

- (2) Accounting systems will meet and comply with generally accepted accounting principles. Transactions will be supported by source documentation which identifies the source and use of the contract funds.

(3) The agency records management system provides for systematic accumulation; filing; retention of appropriate records; all contract documentation of accountability and an inventory of non-expendable items. Included are vouchers; receipts; materials and equipment cost; facilities usage; and, general indirect costs.

(4) Program and client data are available at minimum on a quarterly basis. Monthly attendance records are kept on all participants.

#### NEW SECTION

WAC 392-220-090 REQUEST FOR EVEN START PROJECT GRANTS TO SPI. Any eligible grantee may submit a request to the superintendent of public instruction for an even start project grant. Such request must be reviewed and approved by the governing board of the requesting public or private agency and shall include the assurances required by WAC-220-070, 392-220-075, 392-220-080.

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

#### NEW SECTION

WAC 392-220-095 ASSURANCE OF COOPERATION WITH STATE AUDITOR. No application for an even start project grant shall be approved by the superintendent of public instruction unless the authorized agent or eligible grantee agrees to provide written assurance that an audit will be permitted if deemed appropriate by the state auditor.

#### NEW SECTION

WAC 392-220-100 ASSURANCE OF SERVICE TO TARGETED GROUPS. No application for an even start project grant shall be approved by the superintendent of public instruction unless the authorized agent or eligible grantee agrees to provide written assurance that even start programs will serve one or more of the following groups:

- (1) Single heads of household.
- (2) Parents of early childhood education assistance program (ECEAP) participants.
- (3) Public assistance recipients.
- (4) Ethnic minorities.
- (5) Limited English proficient parents who are below the eighth grade literacy level in their own language.

#### NEW SECTION

WAC 392-220-105 DATE OF RECEIPT OF EVEN START PROJECT PROPOSALS. In order to be considered for possible funding, an even start project proposal must be received in the office of the superintendent of public instruction by 5:00 p.m. of the date set forth in the bulletin of the superintendent of public instruction requesting the submission of even start project proposals.

#### NEW SECTION

WAC 392-220-110 EVEN START ADVISORY COMMITTEE. An advisory committee composed of one at least representative from each of the following agencies/groups shall make recommendations to the superintendent of public instruction regarding the implementation of Project Even Start and the proposal selection process:

State Board for Community College Education, Department of Social and Health Services, Department of Community Development, community-based agencies, Adult Basic Education directors, local literacy councils, parent-education specialists, state university colleges of education, common school districts, Education Service Districts, ethnic minority commissions, and professional organizations devoted to early childhood education, reading instruction, and English as a Second Language (ESL) instruction. A selection committee approved by the Advisory Committee shall evaluate the proposals submitted under Project Even Start. Members of the selection committee will not be from commissions, agencies, organizations, or schools which have submitted proposals, and must not personally benefit from the outcome of the selection process.

#### NEW SECTION

WAC 392-220-115 DUTIES OF EVEN START ADVISORY COMMITTEE. The even start advisory committee shall select subcommittees of not more than five members of the committee, or individuals approved by the committee to:

(1) Evaluate requests for proposals and make recommendations for funding to the superintendent of public instruction, including the need for the superintendent of public instruction to negotiate the terms, conditions, or funding of any grant proposal. Members of the selection subcommittee will not be from commissions agencies, organizations, or schools which have submitted even start proposals and must not personally benefit from the outcome of the selection process.

(2) Make recommendations to the superintendent of public instruction on the administration of project even start, including the need to change any statute or rule affecting project even start.

(3) Develop the bylaws that govern the activities of the advisory committee.

#### NEW SECTION

WAC 392-220-120 PRIORITY PROJECTS. In accordance with RCW 28A.130.016, "before developing and funding new adult literacy programs to carry out the purposes of project even start," the superintendent of public instruction shall fund the existing adult literacy programs and parent related programs which meet the conditions established in this chapter and are offered by the following agencies:

- (1) Common schools, including vocational technical institutes.
- (2) Community colleges.
- (3) Community based, nonprofit organizations.

#### NEW SECTION

WAC 392-220-125 COORDINATION OF PROGRAMS. Even start programs shall coordinate their services with programs that enroll the participants' children. Such coordination is essential for several reasons:

(1) Parent participation opportunities in the children's programs enable parents to become involved in their children's learning and development.

(2) Resources available to children and parents through state funded early childhood education and assistance programs and federally funded head start programs complement those available to parents through even start.

(3) The support network of parents and instructional personnel offered through the children's programs will complement, extend, and continue the parent education component beyond participants' period of active involvement in the even start program.

#### NEW SECTION

WAC 392-220-130 EVALUATION CRITERIA FOR PROJECT EVEN START. Proposals for even start funds shall be evaluated according to the following criteria:

(1) The need for literacy, basic skills, and child development instruction for illiterate and semi-literate parents of young children in the geographical area served by the applicant. All proposals must contain data which identify the estimated number of males and females to be served, the estimate of limited English speaking adults and ethnic minorities to be enrolled, the number of anticipated public assistance recipients to be served, and the anticipated percentage of participants with children enrolled in Early Childhood Education and Assistance Programs (ECEAP) and Head Start Programs.

(2) The applicant's ability to design a unique program of instruction for parents which integrates instruction in literacy, basic skills, and child development knowledge;

(3) The linkages between the applicant's program and the instructional programs serving the children of the parents being served: head start programs, early childhood education assistance program (ECEAP), state or federally funded elementary school basic skills programs serving students who have scored below the national average on basic skills tests, and cooperative preschools at community colleges or vocational technical institutes;

(4) The applicant's plan for evaluating the effect of the program on both the parent participants and their preschool or school aged children;

(5) The cost effectiveness of the program;

(6) The applicant's administrative capability; and

(7) The applicant's solicitation of and access to appropriate community resources.

**NEW SECTION**

**WAC 392-220-135 PERFORMANCE STANDARDS FOR PROJECT EVEN START.** Programs proposed under project even start shall:

(1) Reflect instructional methods, staffing patterns, curricula, and utilization of resources which reflect current research in adult learning theory, first and second language literacy acquisition, the role of parents in the child's acquisition of language, and effective parenting skills;

(2) Be sensitive to the social, cultural, and ethnic differences of the participants, and shall respond to those differences in the program design;

(3) Offer adult services at least 10 hours per week for a minimum of 10 weeks and for at least 30 weeks within a 52 week period.

**NEW SECTION**

**WAC 392-220-140 ADMINISTRATIVE COSTS.** Administrative costs for programs funded under project even start may not exceed 7 percent the total grant awarded.

**NEW SECTION**

**WAC 392-220-145 LIABILITY INSURANCE.** The superintendent of public instruction assumes no liability with respect to bodily injury, illness, accident, theft, or any other damages or losses concerning persons or property, or involving the applicant's equipment or vehicles. Successful applicants who are non-public entities shall have the responsibility of providing adequate insurance coverage to protect against legal liability arising out of activities.

**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.

**NEW SECTION**

**WAC 392-220-150 BONDING.** Every officer, director, or employee of a non-public entity who is authorized to act on behalf of the applicant or any subcontractor for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs will be bonded to provide protection against loss.

**NEW SECTION**

**WAC 392-220-155 MAXIMUM GRANT AWARD PER PARTICIPANT.** Under this chapter the maximum grant award per ten week period per participant shall not exceed \$1,000.

**WSR 88-03-012  
EMERGENCY RULES  
SUPERINTENDENT OF PUBLIC INSTRUCTION  
[Order 88-7—Filed January 8, 1988]**

I, Frank B. Brouillet, do promulgate and adopt at Olympia, Washington, the annexed rules relating to project even start, chapter 392-220 WAC.

I, Frank B. Brouillet, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is in order for even start grantees to participate in the program in a timely manner and without disruption of their orderly operation, it is essential that the rules governing application for funds and

conduct of even start be in place prior to April 1, 1988. Without such action, such assistance for every eligible parent in the state will be compromised by delay.

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

This rule is promulgated pursuant to RCW 28A.130.014(5) 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 January 8, 1988.

By Frank B. Brouillet

Superintendent of Public Instruction

*Authority.*

*Purpose.*

*Statement of public policy goals.*

*Definition—Project Even Start.*

*Definition—Child development knowledge.*

*Definition—Other eligible program components.*

*Definition—Eligible grantee.*

*Definition—Eligible parents.*

*Definition—Basic Skills.*

*Definition—Standardized Tests.*

*Definition—Transportation.*

*Definition—Child care.*

*Definition—Directly necessary activities.*

*Assurance of nonsupplanting of Federal Funds for adult literacy programs with state funds for Project Even Start.*

*Assurance of cooperation with existing programs.*

*Assurance of submission of annual evaluation report.*

*Establishment of reporting requirements for grantees.*

*Prescription of application procedures for funds for Project Even Start programs.*

*Assurance of cooperation with the state auditor.*

*Assurance of service to targeted groups.*

*Establishment of information source for date of receipt for initial proposals.*

*Prescription of the composition of the Project Even Start Advisory Committee.*

*Prescription of duties of the Even Start Advisory Committee.*

*Establishment of priority projects.*

*Requirement of coordination of Even Start programs with programs serving participants' children.*

392-220-005

392-220-010

392-220-015

392-220-020

392-220-025

392-220-030

392-220-035

392-220-040

392-220-045

392-220-050

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392-220-065

392-220-070

392-220-075

392-220-080

392-220-085

392-220-090

392-220-095

392-220-100

392-220-105

392-220-110

392-220-115

392-220-120

392-220-125

- 392-220-130 Establishment of the selection criteria for Project Even Start proposals.
- 392-220-135 Establishment of performance standards for Project Even Start Programs.
- 392-220-140 Establishment of limits and the need for liability insurance.
- 392-220-145 Prescription of liability limits and the need for liability insurance.
- 392-220-150 Requirement of bonding for program personnel of non-public entities.
- 392-220-155 Establishment of the maximum grant award per participant.

Chapter 392  
Grant Program—Project Even Start

NEW SECTION

WAC 392-220-005 **AUTHORITY.** The authority for this chapter is RCW 28A.130.014(5) which authorizes the superintendent of public instruction to promulgate rules for the establishment and administration of project even start.

NEW SECTION

WAC 392-220-010 **PURPOSE.** The purpose of this chapter is to set forth policies and procedures for the administration of project even start, including the establishment of eligibility criteria for the award of grants to eligible grantees.

NEW SECTION

WAC 392-220-015 **PUBLIC POLICY GOALS OF PROJECT EVEN START.** The public policy goals of project even start are to:

- (1) Recognize that parents can be the most effective teachers for their children.
- (2) Provide illiterate or semiliterate parents with opportunities to acquire basic skills and child development knowledge that will enhance their ability to assist and support their children in the learning process.
- (3) Enhance children's learning experiences in the formal education environment by providing children with the motivation and positive home environment which contributes to enhanced academic performance.

NEW SECTION

WAC 392-220-020 **PROJECT EVEN START—DEFINITION.** As used in this chapter, the term "project even start" means a program primarily designed to provide illiterate or semiliterate parents with basic skills instruction and which may include instruction in child development knowledge and other eligible program components as provided in WAC 392-220-030.

NEW SECTION

WAC 392-220-025 **CHILD DEVELOPMENT KNOWLEDGE—DEFINITION.** As used in this chapter, the term "child development knowledge" means information about characteristics of child growth, including differences in development, and the role of child-

parent interaction in supporting the developmental process.

NEW SECTION

WAC 392-220-030 **OTHER ELIGIBLE PROGRAM COMPONENTS—DEFINITION.** As used in this chapter, the term "other eligible program components" means one or more of the following:

- (1) Transportation.
- (2) Child care.
- (3) Other activities determined by the superintendent of public instruction to be directly necessary activities to accomplish the purpose of project even start.

NEW SECTION

WAC 392-220-035 **ELIGIBLE GRANTEE—DEFINITION.** As used in this chapter "eligible grantee" means any public agency or private non-sectarian program or organization.

NEW SECTION

WAC 392-220-040 **ELIGIBLE PARENTS—DEFINITION.** As used in this chapter, the term "eligible parents" means one or more custodial parents, which may be a biological or foster parent, a guardian, or a person with whom a child resides, and who meets the following two part test:

- (1) Is illiterate or semi-literate, i.e., has less than an eighth grade ability in one or more basic skill areas: **PROVIDED,** That in the case of parents whose primary language is other than English, eighth grade ability shall be determined on the basis of performing basic skill activities in their native language.
- (2) Has a child enrolled in one of the following programs:
  - (a) State early childhood education and assistance program.
  - (b) Federal head start program
  - (c) State or federally funded elementary school—i.e., grades K-8—basic skills program serving students who have scored below the national average of the basic skill areas of reading, language arts, or mathematics.
  - (d) A cooperative nursery—e.g. preschool or day care—at a community college or vocational technical institute.

NEW SECTION

WAC 392-220-045 **BASIC SKILLS—DEFINITION.** As used in this chapter, the term basic skills means reading, language arts, and mathematics, including the readiness skills associated with such skills.

NEW SECTION

WAC 392-220-050 **STANDARDIZED TEST—DEFINITION.** As used in this chapter, the term "standardized test" means one of the following:

- (1) Test of adult basic education (TABE)
- (2) Adult basic learning examination (ABLE)

(3) Any other recognized test of adult basic skills that has received the prior approval of the superintendent of public instruction.

#### NEW SECTION

**WAC 392-220-055 TRANSPORTATION—DEFINITION.** As used in this chapter, the term "transportation" means transport of the eligible parents or children thereof provided directly by the eligible grantee or reimbursed by such eligible grantee pursuant to the allowances provided in WAC 392-141-190(2).

#### NEW SECTION

**WAC 392-220-060 CHILD CARE—DEFINITION.** As used in this chapter, the term "child care" means adult supervision of children of eligible parents provided directly by the eligible grantee or reimbursed by such eligible grantee pursuant to a written contract either with the provider of the day care or with the eligible parent.

#### NEW SECTION

**WAC 392-220-065 DIRECTLY NECESSARY ACTIVITIES—DEFINITION.** As used in this chapter, the term "directly necessary activities" means reasonable services and activities that are needed to remove barriers that inhibit participation of eligible parents in the even start project.

#### NEW SECTION

**WAC 392-220-070 ASSURANCE OF NONSUPPLANTING—PROGRAM STANDARD.** No application for an even start project grant shall be approved by the superintendent of public instruction unless the authorized agent of the eligible grantee provides assurance to the superintendent of public instruction of compliance with RCW 28A.130.014(4)—i.e., "state funds . . . shall be used solely to expand and complement, but not supplant, federal funds for adult literacy programs."

#### NEW SECTION

**WAC 392-220-075 ASSURANCE OF COOPERATION WITH DSHS REGARDING PUBLIC ASSISTANCE REPORTS—PROGRAM STANDARD.** No application for an even start project grant shall be approved by the superintendent of public instruction unless the authorized agent of the eligible grantee agrees to assist eligible parents in any reporting requirement of the department of social and health services related to compliance with RCW 28A.130.014(3)—i.e., "fulfillment of . . . work and training obligation for the receipt of public assistance."

#### NEW SECTION

**WAC 392-220-080 ASSURANCE TO SUBMIT ANNUAL EVALUATION REPORT TO SPI.** No application for an even start project grant shall be approved by the superintendent of public instruction unless the authorized agent of the eligible grantee agrees to submit to the superintendent of public instruction on a

date established by the superintendent of public instruction an annual evaluation report which shall contain the following:

- (1) Progress made by adult enrolled as evidenced by:
  - (a) Grade equivalent or standardized test scores for basic skills at beginning and end of enrollment in even start programs.
  - (b) Data on length of enrollment and frequency of attendance.
  - (c) Total number of instructional hours actually received in literacy, basic skills, and parenting skills.
- (2) Effect of parents' participation in even start on children of enrollees as evidenced by:
  - (a) Comparative data on parent participation in programs in which children are enrolled.
  - (b) Comparative data (e.g., teachers' observations) on children's behavior in programs in which they are enrolled.
  - (3) Summary impressions on the most effective methods and materials for serving specific populations.
  - (4) Observations regarding the effect of support services on program participation.
  - (5) Recommendations for program improvements.
  - (6) Data on demand for even start programs in service area versus number of participants enrolled.
  - (7) Such additional information as the superintendent of public instruction shall request related to the effectiveness of the funded project even start.

#### NEW SECTION

**WAC 392-220-085 REPORTING REQUIREMENTS.** Successful applicants for project even start will be required to report fiscal, program, and client data to the superintendent of public instruction upon request.

At a minimum, applicants are required to ensure that:

- (1) Financial systems allow for effective control and accountability for all program funds, property and other assets, including use for authorized purposes only.
- (2) Accounting systems will meet and comply with generally accepted accounting principles. Transactions will be supported by source documentation which identifies the source and use of the contract funds.
- (3) The agency records management system provides for systematic accumulation; filing; retention of appropriate records; all contract documentation of accountability and an inventory of non-expendable items. Included are vouchers, receipts, materials and equipment cost; facilities usage; and, general indirect costs.
- (4) Program and client data are available at minimum on a quarterly basis. Monthly attendance records are kept on all participants.

#### NEW SECTION

**WAC 392-220-090 REQUEST FOR EVEN START PROJECT GRANTS TO SPI.** Any eligible grantee may submit a request to the superintendent of public instruction for an even start project grant. Such request must be reviewed and approved by the governing board of the requesting public or private agency and shall include the assurances required by WAC-220-070, 392-220-075, 392-220-080.

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

#### NEW SECTION

**WAC 392-220-095 ASSURANCE OF COOPERATION WITH STATE AUDITOR.** No application for an even start project grant shall be approved by the superintendent of public instruction unless the authorized agent or eligible grantee agrees to provide written assurance that an audit will be permitted if deemed appropriate by the state auditor.

#### NEW SECTION

**WAC 392-220-100 ASSURANCE OF SERVICE TO TARGETED GROUPS.** No application for an even start project grant shall be approved by the superintendent of public instruction unless the authorized agent or eligible grantee agrees to provide written assurance that even start programs will serve one or more of the following groups:

- (1) Single heads of household.
- (2) Parents of early childhood education assistance program (ECEAP) participants.
- (3) Public assistance recipients.
- (4) Ethnic minorities.
- (5) Limited English proficient parents who are below the eighth grade literacy level in their own language.

#### NEW SECTION

**WAC 392-220-105 DATE OF RECEIPT OF EVEN START PROJECT PROPOSALS.** In order to be considered for possible funding, an even start project proposal must be received in the office of the superintendent of public instruction by 5:00 p.m. of the date set forth in the bulletin of the superintendent of public instruction requesting the submission of even start project proposals.

#### NEW SECTION

**WAC 392-220-110 EVEN START ADVISORY COMMITTEE.** An advisory committee composed of one at least representative from each of the following agencies/groups shall make recommendations to the superintendent of public instruction regarding the implementation of Project Even Start and the proposal selection process:

State Board for Community College Education, Department of Social and Health Services, Department of Community Development, community-based agencies, Adult Basic Education directors, local literacy councils, parent-education specialists, state university colleges of education, common school districts, Education Service Districts, ethnic minority commissions, and professional organizations devoted to early childhood education, reading instruction, and English as a Second Language (ESL) instruction. A selection committee approved by the Advisory Committee shall evaluate the proposals submitted under Project Even Start. Members of the selection committee will not be from commissions, agencies, organizations, or schools which have submitted

proposals, and must not personally benefit from the outcome of the selection process.

#### NEW SECTION

**WAC 392-220-115 DUTIES OF EVEN START ADVISORY COMMITTEE.** The even start advisory committee shall select subcommittees of not more than five members of the committee, or individuals approved by the committee to:

(1) Evaluate requests for proposals and make recommendations for funding to the superintendent of public instruction, including the need for the superintendent of public instruction to negotiate the terms, conditions, or funding of any grant proposal. Members of the selection subcommittee will not be from commissions, agencies, organizations, or schools which have submitted even start proposals and must not personally benefit from the outcome of the selection process.

(2) Make recommendations to the superintendent of public instruction on the administration of project even start, including the need to change any statute or rule affecting project even start.

(3) Develop the bylaws that govern the activities of the advisory committee.

#### NEW SECTION

**WAC 392-220-120 PRIORITY PROJECTS.** In accordance with RCW 28A.130.016, "before developing and funding new adult literacy programs to carry out the purposes of project even start," the superintendent of public instruction shall fund the existing adult literacy programs and parent related programs which meet the conditions established in this chapter and are offered by the following agencies:

- (1) Common schools, including vocational technical institutes.
- (2) Community colleges.
- (3) Community based, nonprofit organizations.

#### NEW SECTION

**WAC 392-220-125 COORDINATION OF PROGRAMS.** Even start programs shall coordinate their services with programs that enroll the participants' children. Such coordination is essential for several reasons:

(1) Parent participation opportunities in the children's programs enable parents to become involved in their children's learning and development.

(2) Resources available to children and parents through state funded early childhood education and assistance programs and federally funded head start programs complement those available to parents through even start.

(3) The support network of parents and instructional personnel offered through the children's programs will complement, extend, and continue the parent education component beyond participants' period of active involvement in the even start program.

NEW SECTION

WAC 392-220-130 **EVALUATION CRITERIA FOR PROJECT EVEN START.** Proposals for even start funds shall be evaluated according to the following criteria:

(1) The need for literacy, basic skills, and child development instruction for illiterate and semi-literate parents of young children in the geographical area served by the applicant. All proposals must contain data which identify the estimated number of males and females to be served, the estimate of limited English speaking adults and ethnic minorities to be enrolled, the number of anticipated public assistance recipients to be served, and the anticipated percentage of participants with children enrolled in Early Childhood Education and Assistance Programs (ECEAP) and Head Start Programs.

(2) The applicant's ability to design a unique program of instruction for parents which integrates instruction in literacy, basic skills, and child development knowledge;

(3) The linkages between the applicant's program and the instructional programs serving the children of the parents being served: head start programs, early childhood education assistance program (ECEAP), state or federally funded elementary school basic skills programs serving students who have scored below the national average on basic skills tests, and cooperative preschools at community colleges or vocational technical institutes;

(4) The applicant's plan for evaluating the effect of the program on both the parent participants and their preschool or school aged children;

(5) The cost effectiveness of the program;

(6) The applicant's administrative capability; and

(7) The applicant's solicitation of and access to appropriate community resources.

NEW SECTION

WAC 392-220-135 **PERFORMANCE STANDARDS FOR PROJECT EVEN START.** Programs proposed under project even start shall:

(1) Reflect instructional methods, staffing patterns, curricula, and utilization of resources which reflect current research in adult learning theory, first and second language literacy acquisition, the role of parents in the child's acquisition of language, and effective parenting skills;

(2) Be sensitive to the social, cultural, and ethnic differences of the participants, and shall respond to those differences in the program design;

(3) Offer adult services at least 10 hours per week for a minimum of 10 weeks and for at least 30 weeks within a 52 week period.

NEW SECTION

WAC 392-220-140 **ADMINISTRATIVE COSTS.** Administrative costs for programs funded under project even start may not exceed 7 percent the total grant awarded.

NEW SECTION

WAC 392-220-145 **LIABILITY INSURANCE.** The superintendent of public instruction assumes no liability with respect to bodily injury, illness, accident, theft, or any other damages or losses concerning persons or property, or involving the applicant's equipment or vehicles. Successful applicants who are non-public entities shall have the responsibility of providing adequate insurance coverage to protect against legal liability arising out of activities.

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.

NEW SECTION

WAC 392-220-150 **BONDING.** Every officer, director, or employee of a non-public entity who is authorized to act on behalf of the applicant or any subcontractor for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs will be bonded to provide protection against loss.

NEW SECTION

WAC 392-220-155 **MAXIMUM GRANT AWARD PER PARTICIPANT.** Under this chapter the maximum grant award per ten week period per participant shall not exceed \$1,000.

**WSR 88-03-013**

**ADOPTED RULES**

**SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Order 88-8—Filed January 11, 1988]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Finance—General apportionment, chapter 392-121 WAC.

This action is taken pursuant to Notice No. WSR 87-22-075 filed with the code reviser on November 4, 1987. 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.41.055 and 28A.41.170 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 January 8, 1988.

By Frank B. Brouillet  
Superintendent of Public Instruction

Chapter 392-121 WAC  
FINANCE—GENERAL APPORTIONMENT

WAC

GENERAL PROVISIONS

- 392-121-001 Authority.
- 392-121-003 Purpose.
- 392-121-007 Organization of this chapter.
- 392-121-021 Reporting requirements.
- 392-121-031 Definition—School year.
- 392-121-033 Definition—School Day.

ENROLLMENT

- 392-121-106 Definition—Enrolled student.
- 392-121-107 Definition—Courses of study.
- 392-121-108 Enrollment exclusions.
- 392-121-111 Definitions—Residence, resident student and nonresident student.
- 392-121-122 Definition—Full-time equivalent student.
- 392-121-123 Nonstandard school year programs.
- 392-121-133 Definition—Annual average full-time equivalent students.
- 392-121-136 Limitation on enrollment counts.
- 392-121-161 Definition—Kindergarten.
- 392-121-181 Off-campus instruction requirements.
- 392-121-182 Alternative learning experience requirements.
- 392-121-183 Contracting with an educational institution other than a school district.

CERTIFICATED INSTRUCTIONAL STAFF

- 392-121-200 Definition—Certificated employee.
- 392-121-205 Definition—Certificated instructional employee.
- 392-121-210 Definition—Basic education certificated instructional employee.
- 392-121-215 Definition—Full-time equivalent (FTE) basic education certificated instructional staff.
- 392-121-220 Definition—Form S-275.
- 392-121-225 Definition—Report S-727.
- 392-121-245 Definition—Certificated years of experience.
- 392-121-250 Definition—Highest degree level.
- 392-121-255 Definition—Academic credits.
- 392-121-257 Definition—In-service credits.
- 392-121-260 Definition—Total eligible credits.
- 392-121-265 Definition—State-wide salary allocation schedule.
- 392-121-267 Definition—LEAP Document 1.
- 392-121-268 Definition—LEAP Document 11.
- 392-121-270 Placement of certificated instructional staff with degrees on the state-wide salary allocation schedule and on LEAP Document 1.
- 392-121-272 Placement of nondegree certificated instructional personnel on the state-wide salary allocation schedule and on LEAP Document 1.
- 392-121-280 Placement on state-wide salary allocation schedule and on LEAP Document 1—Documentation required.

392-121-285 Definition—District average basic education certificated instructional staff salary per placement on the state-wide salary allocation schedule.

392-121-290 Definition—District actual average annual basic education certificated instructional staff salary.

392-121-295 Definition—District average staff mix factor for basic education certificated instructional staff.

392-121-297 Definition—District actual derived base salary for basic education certificated instructional staff.

392-121-299 Determination of district average basic education certificated instructional staff salary for the purpose of apportionment.

APPORTIONMENT

- 392-121-400 Payment of basic education allocation funds.
- 392-121-405 Termination of an interdistrict cooperative agreement.
- 392-121-415 Basic education allocation—Deductible revenues.
- 392-121-420 Basic education allocation—Federal forest funds.
- 392-121-425 Basic education allocation during strike.
- 392-121-430 Kindergarten and grade one through twelve programs considered collectively—Failure to operate an approved program—Denial of apportionment.
- 392-121-440 Emergency advance payments.
- 392-121-442 Forfeiture of earnings on emergency advance.
- 392-121-445 Procedure for crediting portion of basic education allocation for capital purposes in school districts.
- 392-121-460 Fire district allocation.

GENERAL PROVISIONS

NEW SECTION

WAC 392-121-001 AUTHORITY. The authority for this chapter is RCW 28A.41.170 which authorizes the superintendent of public instruction to adopt rules and regulations as are necessary for the proper administration of chapter 28A.41 RCW. This general authority is supplemented by RCW 28A.41.055 which authorizes the superintendent of public instruction to develop apportionment factors based on data and statistics derived in an annual period established by the superintendent of public instruction.

NEW SECTION

WAC 392-121-003 PURPOSE. The purpose of this chapter is to set forth policies and procedures related to the general apportionment of state moneys for the operation of common schools within the state of

Washington. This section shall apply for apportionment purposes only and shall not apply to program approval standards for basic education entitlement.

#### NEW SECTION

**WAC 392-121-007 ORGANIZATION OF THIS CHAPTER.** This chapter is in the following general subject areas:

- Sections 001-099 General provisions.
- Sections 100-199 Enrollment.
- Sections 200-299 Certificated instructional staff.
- Sections 400-499 Apportionment.

#### NEW SECTION

**WAC 392-121-021 REPORTING REQUIREMENTS.** The reporting requirements of school districts are as follows:

(1) Each school district shall provide, upon request of the superintendent of public instruction, such data as the superintendent deems appropriate to substantiate the district's entitlement to state basic education apportionment.

(2) The superintendent of public instruction shall provide each district with necessary report forms and shall advise each district of the due dates established by the superintendent for the return of such completed report forms to the educational service districts or to the superintendent of public instruction as now or hereafter established by the superintendent of public instruction and published in bulletins of the division of financial services. There shall be no adverse action taken by the superintendent as the result of any late submission of data unless educational service districts and school districts are notified in advance by bulletin of the division of financial services that adverse action in the form of a delay in the apportionment of state funds or otherwise may be taken.

(3) In the event any district fails to submit data in the form required by the superintendent of public instruction or submits data so that it is received by the educational service district superintendent or the superintendent of public instruction after the close of business on the date now or hereafter established by the superintendent of public instruction, but not later than the close of business on the fifth business day after the date the report is due, the district's then current monthly payment of basic education apportionment funds shall be delayed a minimum of ten calendar days from the first day of the next ensuing month.

(4) In the event any district submits data so that it is received by the educational service district or the superintendent of public instruction later than the close of business of the fifth business day following the due date established by the superintendent of public instruction pursuant to bulletins of the division of financial services, the district's then current monthly payment of basic education apportionment funds shall be delayed until the

next monthly payment date: PROVIDED, That the superintendent of public instruction has a reasonable period of time to edit and process the data submitted according to the monthly apportionment schedule established annually by the superintendent and now or hereafter published in bulletins of the division of financial services.

(5) In the event a district has extenuating circumstances, the district may deliver required reports directly to the superintendent of public instruction: PROVIDED, That not later than the due date(s) established pursuant to this section, the school district notifies the educational service district superintendent or designee of the extenuating circumstances and the decision to deliver such report to the superintendent of public instruction; such reports are received by the superintendent of public instruction not later than the close of business on the date established by the superintendent of public instruction; and the school district provides the educational service district superintendent with a copy of such report(s) within a reasonable amount of time following the due date.

#### NEW SECTION

**WAC 392-121-031 DEFINITION—SCHOOL YEAR.** As used in this chapter, "school year" means the annual period commencing on the first day of September of one calendar year and ending the last day of August of the next ensuing calendar year: PROVIDED, That for those school districts commencing basic education programs prior to the September 1, school days scheduled prior to September 1 shall be considered to be within the school year that commences September 1.

#### NEW SECTION

**WAC 392-121-033 DEFINITION—SCHOOL DAY.** As used in this chapter, "school day" means a calendar day except school holidays on which students enrolled in the school district are afforded the opportunity to be engaged in educational activity which is planned, supervised, and conducted by or under the supervision of the school district certificated staff, and on which day all or any portion of the students enrolled in the program actually participate in such educational activity.

### ENROLLMENT

#### NEW SECTION

**WAC 392-121-106 DEFINITION—ENROLLED STUDENT.** As used in this chapter, "enrolled student" means a person who:

(1) After the close of the prior school year has presented himself or herself, or has been presented, to the appropriate school official to be entered on the rolls for the purpose of attending school in grades kindergarten through twelve;

(2) Is under twenty-one years of age at the beginning of the school year;

(3) Actually participated on a school day during the current school year in a course of study as defined in WAC 392-121-107; and

(4) Does not qualify for any of the enrollment exclusions set forth in WAC 392-121-108.

#### NEW SECTION

WAC 392-121-107 DEFINITION—COURSES OF STUDY. As used in this chapter, "courses of study" means those activities for which students enrolled pursuant to chapters 180-50, 180-51, and 392-134 WAC may be counted as enrolled students for the purpose of full-time equivalent student enrollment counts.

(1) Courses of study include:

(a) On-campus instruction – teaching/learning experiences conducted on campus, including qualifying non-class study time. In order to qualify as on-campus instruction, nonclass study time must be scheduled in conjunction with other educational activity which occurs on campus during the school day, and participation in such study time must be monitored.

(b) Off-campus instruction – teaching/learning experiences primarily conducted off-campus in conformance with WAC 392-121-181.

(c) Alternative learning experience – alternative learning experience conducted on or off campus in conformance with WAC 392-121-182.

(d) Contracting – enrollment in an educational institution other than a school district in conformance with WAC 392-121-183.

(e) National guard – participation in a national guard high school career training program for which credit is being given toward either required or elective high school credits pursuant to RCW 28A.04.133 and WAC 180-50-320. Such participation may be counted as a course of study only by the school district which the individual last attended.

(f) Ancillary service – service provided to private school and home-based students in conformance with chapter 392-134 WAC. Ancillary service is reported annually to the superintendent of public instruction by school districts for the number of hours that private school and home-based students attend class or receive ancillary service. Ancillary service is not counted on the monthly report pursuant to WAC 392-121-122.

(g) Work experience training – training provided pursuant to WAC 180-50-315.

(2) Courses of study do not include:

(a) Home-based instruction pursuant to RCW 28A.27.010(4).

(b) Enrollment in state institutions, i.e., handicapped institutions, neglected and delinquent institutions, group homes, and juvenile detention centers.

#### NEW SECTION

WAC 392-121-108 ENROLLMENT EXCLUSIONS. A person who qualifies for any of the exclusions set forth in this section shall not be counted as an enrolled student pursuant to WAC 392-121-106.

(1) Absences – a student whose consecutive days of absence from school encompasses two consecutive

monthly enrollment count days as specified in WAC 392-121-122 shall not be counted on the next enrollment count day as an enrolled student unless one of the following requirements is met:

(a) Attendance is resumed; or

(b) There is an agreement between the appropriate school official and the student's parent or guardian pursuant to RCW 28A.27.010 that the student's temporary absence is not deemed to cause a serious adverse effect upon the student's educational progress: PROVIDED, That such temporary absence shall not exceed twenty consecutive school days.

(2) Dropouts – a student for whom the school district has received notification of dropping out of school by the student or the student's parent or guardian shall not be counted as an enrolled student unless attendance is resumed.

(3) Transfers – a student for whom the school district has received notification of transfer to another public or private school from the school to which the student is transferring, the student, or the student's parent or guardian shall not be counted as an enrolled student unless attendance is resumed in that school district.

(4) Suspensions – a student who has been suspended from school pursuant to WAC 180-40-260, when the conditions of the suspension will cause the student to lose academic grades or credit, shall not be counted as an enrolled student until attendance is resumed.

(5) Expulsions – a student who has been expelled from school by the school district pursuant to WAC 180-40-275 shall not be counted as an enrolled student.

#### NEW SECTION

WAC 392-121-111 DEFINITIONS—RESIDENCE, RESIDENT STUDENT AND NONRESIDENT STUDENT. As used in this chapter, "residence," "resident student" and "nonresident student" mean the same as defined in WAC 392-137-010 when determining an enrolled student.

#### NEW SECTION

WAC 392-121-122 DEFINITION—FULL-TIME EQUIVALENT STUDENT. As used in this chapter, "full-time equivalent student" means each enrolled student in the school district as of the fourth school day following the commencement of the school year (September 1 through August 31) and/or as of the first school day of any of the subsequent eight months for at least the minimum number of hours set forth in subsection (1) of this section, inclusive of class periods and normal class change passing time, but exclusive of noon intermissions: PROVIDED, That the hours set forth below shall be construed as annual average hours for the purposes of compliance with this chapter: PROVIDED FURTHER, That for districts commencing basic education programs prior to September first, the first month enrollment count shall be made on the fourth school day in September.

(1) The minimum hours for each grade are as follows:

(a) Kindergarten (full-day): 20 hours each week, or 4 hours (240 minutes) for 90 scheduled school days;

(b) Kindergarten (half-day): 10 hours each week, or 2 hours (120 minutes) each scheduled school day;

(c) Primary (grades 1 through 3): 20 hours each week, or 4 hours (240 minutes) each scheduled school day;

(d) Elementary (grades 4 through 6): 25 hours each week, or 5 hours (300 minutes) each scheduled school day;

(e) Secondary (grades 7 through 12): 25 hours each week, or 5 hours (300 minutes) each scheduled school day.

#### NEW SECTION

WAC 392-121-123 NONSTANDARD SCHOOL YEAR PROGRAMS. Notwithstanding the count dates in WAC 392-121-122, a student who is participating in a course of study on a tuition-free basis and who has not been counted as a full-time equivalent student for all of the first nine months of the school year may be counted in any of the last three months of the school year as long as enrollment counts for such student do not exceed the limitation on enrollment counts set forth in WAC 392-121-136.

#### NEW SECTION

WAC 392-121-133 DEFINITION—ANNUAL AVERAGE FULL-TIME EQUIVALENT STUDENTS. As used in this chapter, "annual average full-time equivalent students" means the sum of the following:

(1) The quotient obtained by dividing the annual total of full-time equivalent students enrolled and reported to the superintendent of public instruction pursuant to WAC 392-121-122 by nine;

(2) The hours of ancillary service to private school and home-based students reported pursuant to WAC 392-121-107(6) divided by 900.

#### NEW SECTION

WAC 392-121-136 LIMITATION ON ENROLLMENT COUNTS. Enrollment counts pursuant to WAC 392-121-106 through 392-121-133 are subject to the following limitations:

(1) Except as provided in subsection (2) of this section, no student, including a student enrolled in more than one district, shall be counted as more than one full-time equivalent student on any count date or more than one annual average full-time equivalent student in any school year.

(2) School districts operating approved vocational skills center programs during the summer vacation months may claim additional full-time equivalent students based upon actual enrollment in such vocational skills centers on the first school day of July of each year. Each district operating an approved vocational skills center program shall be entitled to claim one annual average full-time equivalent student for each 900 hours of planned student enrollment for the summer term based upon the July enrollment data.

(3) A student who is five years of age at the beginning of the school year and who is enrolled in a preschool

handicapped program shall not be counted as a kindergarten student pursuant to WAC 392-121-122 unless the student is enrolled full time in the preschool handicapped program or attends a regular kindergarten program in addition to the preschool handicapped program.

#### NEW SECTION

WAC 392-121-161 DEFINITION—KINDERGARTEN. As used in this chapter, "kindergarten" means an instructional program conducted pursuant to RCW 28A.58.754 for students who meet the entry age requirements pursuant to chapter 180-39 WAC.

#### NEW SECTION

WAC 392-121-181 OFF-CAMPUS INSTRUCTION REQUIREMENTS. Off-campus instruction may be counted as a course of study pursuant to WAC 392-121-107 if the program operates in compliance with an approved written program plan on file in the appropriate school building. Off-campus program plans shall include but not be limited to:

(1) The objective(s) of the program;

(2) The teaching component(s) of the program, including where and when teaching activities will be conducted by school district certificated staff;

(3) A schedule of the duration of the program, including beginning and ending dates within the school year;

(4) A description of how student performance will be supervised, evaluated, and recorded by the certificated staff or by qualified school district employees under the direct supervision of the certificated staff; and

(5) A description of intervention techniques and criteria for their use.

#### NEW SECTION

WAC 392-121-182 ALTERNATIVE LEARNING EXPERIENCE REQUIREMENTS. An alternative learning program may be counted as a course of study pursuant to WAC 392-121-107 if the following requirements are met:

(1) The program operates in compliance with an approved written program plan on file in the appropriate school building. Alternative learning experience plans shall include but not be limited to:

(a) The objective(s) of the program;

(b) The teaching component(s) of the program, including where and when teaching activities will be conducted by school district certificated staff;

(c) A schedule of the duration of the program, including beginning and ending dates within the school year;

(d) A description of how student performance will be supervised, evaluated, and recorded by the certificated staff or by qualified school district employees under the direct supervision of the certificated staff; and

(e) A description of intervention techniques and criteria for their use.

(2) The student's performance is subject to the direction of and evaluation by the district's certificated staff.

(3) Each course credit which is actively being pursued in an alternative learning experience and which is the equivalent of one course credit may supplement or replace one hour of minimum time toward a scheduled school day.

#### NEW SECTION

WAC 392-121-183 CONTRACTING WITH AN EDUCATIONAL INSTITUTION OTHER THAN A SCHOOL DISTRICT. Enrollment in an educational institution other than a school district may be counted as a course of study pursuant to WAC 392-121-107 if the following requirements are met:

- (1) The student is working towards course credits which satisfy high school graduation requirements; and
- (2) The school district has a contractual agreement with the educational institution to provide instruction at no cost to the student for tuition or fees.

#### CERTIFICATED INSTRUCTIONAL STAFF

#### NEW SECTION

WAC 392-121-200 DEFINITION—CERTIFICATED EMPLOYEE. As used in this chapter, "certificated employee" means a person who holds a professional education certificate issued by the superintendent of public instruction and who is employed by a school district in a position for which such certificate is required by statute, rule of the state board of education, or written policy or practice of the employing school district.

#### NEW SECTION

WAC 392-121-205 DEFINITION—CERTIFICATED INSTRUCTIONAL EMPLOYEE. As used in this chapter, "certificated instructional employee" means any certificated employee except one who is employed solely as one or more of the following:

- (1) Chief executive officer, chief administrative officer, or confidential employee within the meaning of RCW 41.59.020(4);
- (2) Principal, assistant principal, and any person hired in any manner to fill a position designated as, or which is in fact, that of principal or assistant principal;
- (3) Other district administrator, which means an employee, including an administrative assistant, director, or coordinator of a district-wide program, who directs staff members and/or manages a function, a program, or a supporting service in a school district; and
- (4) Other school administrator, which means an employee including an administrative assistant, administrative intern, or supervisor of a school program, who directs staff members or manages a function, a program, or a support service in a school.

#### NEW SECTION

WAC 392-121-210 DEFINITION—BASIC EDUCATION CERTIFICATED INSTRUCTIONAL EMPLOYEE. As used in this chapter, "basic education certificated instructional employee" means a certificated

instructional employee assigned in whole or in part to the following programs as defined in the accounting manual for public school districts in the state of Washington:

- (1) Basic education, program 01;
- (2) Secondary vocational education, program 31;
- (3) Skills center, program 45;
- (4) General instruction support, program 94; and
- (5) General support services, program 97.

#### NEW SECTION

WAC 392-121-215 DEFINITION—FULL-TIME EQUIVALENT (FTE) BASIC EDUCATION CERTIFICATED INSTRUCTIONAL STAFF. As used in this chapter, "full-time equivalent (FTE) basic education certificated instructional staff" means the number of staff units determined as follows:

(1) Each employee of the school district who, as of October 1 of the school year, is contracted to provide services as a basic education certificated instructional employee for not less than 180 full work days shall be counted as one FTE.

(2) Each employee of the school district who, as of October 1 of the school year, is contracted to provide services for 180 partial days as a basic education certificated instructional employee shall be counted as a partial FTE, such part to be the quotient to the nearest thousandth obtained by dividing that part of the day worked by the full day as determined by the district.

(3) Each employee of the school district who, as of October 1 of the school year, is contracted to provide services for less than 180 full work days as a basic education certificated instructional employee shall be counted as a partial FTE, such part to be the quotient rounded to the nearest thousandth obtained by dividing the number of work days contracted for by 180: PROVIDED, That if the normal annual full-time contract for the position exceeds 180 work days, the greater number of work days normally contracted shall be used as the divisor.

(4) Each employee of the school district who, as of October 1 of the school year, is contracted to provide services for less than 180 partial days as a basic education certificated instructional employee shall be counted as a partial FTE, such part to be the quotient to the nearest thousandth obtained by dividing the part of the day worked by the full day as determined by the district and then multiplying the result by the ratio of work days contracted for to 180: PROVIDED, That if the normal annual full-time contract for the position exceeds 180 work days, the greater number of work days normally contracted shall be used in place of 180 in the ratio.

(5) No employee shall be counted as more than one full-time equivalent basic education certificated staff unit.

(6) The length of a full work day as used in this section shall be determined by the district.

#### NEW SECTION

WAC 392-121-220 DEFINITION—FORM S-275. As used in this chapter, "Form S-275" means the

certificated personnel report which is distributed annually by the superintendent of public instruction on or before September 1 and which includes such items as the individual certificated employee's name, certificate number, educational level, years of professional work experience, contract days, annual salary, fringe benefits and insurance benefits for the year, work assignment(s) and full-time equivalency. This report shall include only certificated individuals employed by the district as of October 1 of the school year.

#### NEW SECTION

WAC 392-121-225 DEFINITION—REPORT S-727. As used in this chapter, "Report S-727" means the alphabetic listing of certificated personnel employed by a school district on October 1 as prepared by the superintendent of public instruction from data submitted by the district on the Form S-275 for the school year.

#### NEW SECTION

WAC 392-121-245 DEFINITION—CERTIFICATED YEARS OF EXPERIENCE. Regardless of the experience factors used by a school district for the purposes of its salary schedule(s), as used in this chapter, the term "years of experience" means the number of years of accumulated full-time and part-time professional education employment prior to the current reporting school year in the state of Washington, out-of-state, and a foreign country and shall be reported by the school district to the nearest tenth. School districts shall report all years of experience including those beyond the experience limit of the school district's salary schedule. The traditional nine-month academic year shall be considered as one school year. Not more than one school year of experience may be counted for any twelve-month period. Substitute days, if documented, shall be reported as part-time professional education employment calculated by dividing the accumulated number of full-time substitute days by one hundred eighty and rounding to the nearest tenth. Partial substitute days shall be reported as part-time professional education employment calculated by dividing the part of the day worked by the full day as determined by the district and rounded to the nearest tenth of a day. Professional education experience shall be limited to the following:

(1) Employment in public or private preschools or elementary and secondary schools in positions which require certification;

(2) Employment in public or private vocational-technical schools, community/junior colleges, colleges, and universities in positions comparable to those which require certification in the common schools;

(3) Employment in an educational agency or institution including but not limited to an educational service district, office of the superintendent of public instruction, or United States department of education in any professional position including but not limited to C.P.A., architect, business manager, or physician;

(4) Experience in the following areas if recognized by the district for placement on the district salary schedule:

(a) Military, Peace Corps, or Vista service which interrupted professional employment;

(b) Sabbatical leave; and

(c) For vocational instructors who hold no degree, up to a maximum of six years of management experience acquired after the instructor meets the minimum vocational certification requirements.

#### NEW SECTION

WAC 392-121-250 DEFINITION—HIGHEST DEGREE LEVEL. As used in this chapter, the term "highest degree level" means the highest degree earned by the employee from an accredited college or university.

#### NEW SECTION

WAC 392-121-255 DEFINITION—ACADEMIC CREDITS. As used in this chapter, "academic credits" means credits determined as follows:

(1) Credits are earned after the awarding or conferring of the employee's first bachelor's degree.

(2) Credits are earned on or before October 1 of the year for which allocations are being calculated pursuant to this chapter.

(3) Credits are earned from an accredited community college, college, or university.

(4) Credits are transferrable or applicable to a bachelor's or more advanced degree program.

(5) Credits are not counted as in-service credits pursuant to WAC 392-121-257.

(6) The number of credits equals the number of quarter hours, units or semester hours each converted to quarter hours earned from the community college, college, or university.

#### NEW SECTION

WAC 392-121-257 DEFINITION—IN-SERVICE CREDITS. As used in this chapter, "in-service credits" means credits determined as follows:

(1) Credits are earned after August 31, 1987.

(2) Credits are earned on or before October 1 of the year for which allocations are being calculated pursuant to this chapter.

(3) Credits are earned in either:

(a) A locally approved in-service training program which means a program approved by a school district board of directors, and meeting standards adopted by the state board of education pursuant to the standards in WAC 180-85-200 and the development of which has been participated in by an in-service training task force whose membership is the same as provided under RCW 28A.71.210; or

(b) A state approved continuing education program offered by an education agency approved to provide in-service for the purposes of continuing education as provided for under rules adopted by the state board of education pursuant to chapter 180-85 WAC.

(4) Credits are not counted as academic credits pursuant to WAC 392-121-255.

(5) Credits are not earned for the purpose of satisfying the requirements of the employee's next highest degree.

(6) Ten locally approved in-service or state approved continuing education credit hours defined in WAC 180-85-030 equal one in-service credit.

#### NEW SECTION

WAC 392-121-260 DEFINITION—TOTAL ELIGIBLE CREDITS. As used in this chapter, "total eligible credits" means the total number of credits determined pursuant to this section.

(1) Eligible academic credits by degree level are determined as follows:

(a) For an employee whose highest degree is a bachelor's degree, eligible academic credits equals the total of all academic credits as defined in WAC 392-121-255.

(b) For an employee whose highest degree is a master's degree which was awarded or conferred on or before August 31, 1987, eligible academic credits equals academic credits as defined in WAC 392-121-255 earned after the awarding or conferring of the master's degree.

(c) For an employee whose highest degree is a master's degree earned after August 31, 1987, eligible academic credits equals the sum of the following:

(i) Academic credits as defined in WAC 392-121-255 earned after the awarding or conferring of the master's degree; plus

(ii) Academic credits as defined in WAC 392-121-255 in excess of forty-five credits earned after August 31, 1987 and before the awarding or conferring of the master's degree.

(2) In-service credits as defined in WAC 392-121-257.

(3) The result obtained by adding the credits calculated under subsections (1) and (2) of this section is the total eligible credits for the purposes of this chapter.

#### NEW SECTION

WAC 392-121-265 DEFINITION—STATE-WIDE SALARY ALLOCATION SCHEDULE. As used in this chapter, "state-wide salary allocation schedule" means the schedule established by the legislature for each school year pursuant to section 204, chapter 2, Laws of 1987 1st ex. sess. and the biennial Operating Appropriations Act for the purpose of determining funding for basic education certificated instructional staff salaries.

#### NEW SECTION

WAC 392-121-267 DEFINITION—LEAP DOCUMENT 1. As used in this chapter, "LEAP Document 1" means the computerized tabulation establishing staff mix factors for basic education certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on August 18, 1987, at 13:26 hours.

#### NEW SECTION

WAC 392-121-268 DEFINITION—LEAP DOCUMENT 11. As used in this chapter, "LEAP Document 11" means the computerized tabulation of 1986-87 derived base salaries for basic education certificated instructional staff, as developed by the legislative evaluation and accountability program committee on August 19, 1987, at 10:29 hours.

#### NEW SECTION

WAC 392-121-270 PLACEMENT OF CERTIFICATED INSTRUCTIONAL STAFF WITH DEGREES ON THE STATE-WIDE SALARY ALLOCATION SCHEDULE AND ON LEAP DOCUMENT 1. Each certificated instructional employee with a degree shall be placed on the state-wide salary allocation schedule and on LEAP Document 1 based on the employee's years of experience, highest degree level, and total eligible credits as defined in this chapter.

(1) If an employee holds more than one degree of the same level, additional credits shall be counted after the first degree.

(2) A certificated instructional employee who holds a valid vocational certificate acquired as the result of industrial experience rather than college training, and who also has earned a college degree which is incidental to or not related to the vocational certificate shall be reported by the school district as holding no degree.

(3) For placement on the state-wide salary allocation schedule and on LEAP Document 1, years of experience and total eligible credits shall be rounded to the nearest whole number. One-half year or credit shall be rounded to the next highest year or credit.

#### NEW SECTION

WAC 392-121-272 PLACEMENT OF NONDEGREE CERTIFICATED INSTRUCTIONAL PERSONNEL ON THE STATE-WIDE SALARY ALLOCATION SCHEDULE AND ON LEAP DOCUMENT 1. Certificated employees without college degrees shall be placed on the state-wide salary allocation schedule and on LEAP Document 1 as follows:

(1) Persons holding a valid initial or provisional certificate as a school nurse, a life teaching certificate, or a valid certificate as a special elementary or secondary consultant, or special crafts teacher shall be placed on the BA column.

(2) For certificated instructional employees having no degree of bachelor's level or higher, no credits earned beyond degree may be reported except as provided in subsections (3) and (4) of this section.

(3) Persons holding a valid continuing or standard school nurse certificate shall be placed on the BA + 30 credits column.

(4) Persons holding valid vocational certificates as provided for in chapter 180-77 WAC shall be placed on the state-wide salary allocation schedule and on LEAP Document 1 as follows:

(a) Persons meeting the minimum certification requirements shall be placed on the BA column; and

(b) Additional quarter credit hours earned shall be recognized on the basis of one quarter hour for each ten clock hours of approved teacher training and/or one quarter hour for each 100 clock hours of occupational experience as defined in chapter 180-77 WAC each earned after meeting the minimal vocational certification requirements. Persons reaching the BA + 135 credits column with this process shall be placed on the MA column.

(5) Years of experience and quarter credit hours shall be rounded to the nearest whole number. One-half year or credit shall be rounded to the next highest year or credit.

#### NEW SECTION

**WAC 392-121-280 PLACEMENT ON STATE-WIDE SALARY ALLOCATION SCHEDULE AND ON LEAP DOCUMENT 1—DOCUMENTATION REQUIRED.** School districts shall have documentation on file and available for review which substantiates each certificated employee's placement on the state-wide salary allocation schedule and on LEAP Document 1.

(1) Districts shall document the date of awarding or conferring of the highest degree. Documentation shall include the date upon which the degree was awarded or conferred as recorded on the diploma or official transcript: **PROVIDED**, That if the degree was awarded by an institution which does not confer degrees after each term, and all degree requirements were completed at a time other than the date recorded on the diploma or transcript, an official notarized statement from the institution verifying a prior completion date shall be adequate documentation.

(2) Districts shall document total eligible credits on an official transcript or letter from the institution granting the credits or performing the in-service training.

(3) Districts shall document years of experience that are eligible for application on the state-wide salary allocation schedule and on LEAP Document 1. Documentation for years of experience shall be on letters or any other documents that provides evidence of employment including dates of employment.

#### NEW SECTION

**WAC 392-121-285 DEFINITION—DISTRICT AVERAGE BASIC EDUCATION CERTIFICATED INSTRUCTIONAL STAFF SALARY PER PLACEMENT ON THE STATE-WIDE SALARY ALLOCATION SCHEDULE.** As used in this chapter, "district basic education certificated instructional staff salary per placement on the state-wide salary allocation schedule" means the amount rounded to the nearest whole dollar determined as follows:

(1) Assign a salary to each basic education certificated instructional employee by placing the employee on the state-wide salary allocation schedule pursuant to WAC 392-121-270 or 392-121-272;

(2) Multiply the result by the full-time equivalency for the time each employee meets the definition of full-time equivalent basic education certificated instructional staff pursuant to WAC 392-121-215;

(3) Sum the results obtained in subsection (2) of this section for all basic education certificated instructional employees; and

(4) Divide the result by the district's total full-time equivalent basic education certificated instructional staff.

(5) For the purposes of this section basic education certificated instructional employees are those employed by the school district as of October 1 of the school year as reported to the superintendent of public instruction on Form S-275.

#### NEW SECTION

**WAC 392-121-290 DEFINITION—DISTRICT ACTUAL AVERAGE ANNUAL BASIC EDUCATION CERTIFICATED INSTRUCTIONAL STAFF SALARY.** As used in this chapter, "district actual average annual basic education certificated instructional staff salary" means the amount rounded to the nearest whole dollar determined as follows:

(1) Determine for each basic education certificated instructional employee the actual annual certificated instructional employee salary for the school year as reported to the superintendent of public instruction prior to June 1 of the school year;

(2) Multiply the result obtained in subsection (1) of this section by the full-time equivalency for the time each employee qualifies as full-time equivalent basic education certificated instructional staff pursuant to WAC 392-121-215.

(3) Sum the results obtained in subsection (2) of this section for all basic education certificated instructional employees; and

(4) Divide the result obtained in subsection (3) of this section by the district's total full-time equivalent basic education certificated instructional staff for the 1986-87 school year as reported to the superintendent of public instruction prior to June 1 of the school year.

(5) For the purposes of this section certificated instructional employees are those employed by the school district as of October 1 of the school year and as reported to the superintendent of public instruction on Form S-275.

#### NEW SECTION

**WAC 392-121-295 DEFINITION—DISTRICT AVERAGE STAFF MIX FACTOR FOR BASIC EDUCATION CERTIFICATED INSTRUCTIONAL STAFF.** As used in this chapter, "district average staff mix factor for basic education certificated instructional staff" means the number rounded to three decimal places determined as follows:

(1) Assign a staff mix factor to each basic education certificated instructional employee by placing the employee on LEAP Document 1 pursuant to WAC 392-121-270 or 392-121-272;

(2) Multiply the result by the full-time equivalency for the time each employee meets the definition of full-time equivalent basic education certificated instructional employee pursuant to WAC 392-121-215;

(3) Sum the results obtained in subsection (2) of this section for all basic education certificated instructional employees of the school district; and

(4) Divide the result by the district's total full-time equivalent basic education certificated instructional staff.

(5) For the purpose of this section basic education certificated instructional staff are those employed by the school district as of October 1 of the school year as reported to the superintendent of public instruction on Form S-275.

#### NEW SECTION

**WAC 392-121-297 DEFINITION—DISTRICT ACTUAL DERIVED BASE SALARY FOR BASIC EDUCATION CERTIFICATED INSTRUCTIONAL STAFF.** As used in this chapter, "district actual derived base salary for basic education certificated instructional staff" means the amount rounded to the nearest whole dollar determined as follows:

(1) Determine the school district's actual average annual basic education certificated instructional staff salary for the school year pursuant to WAC 392-121-290; and

(2) Divide the result by the district's average staff mix factor for basic education certificated instructional staff for the school year determined pursuant to WAC 392-121-295.

#### NEW SECTION

**WAC 392-121-299 DETERMINATION OF DISTRICT AVERAGE BASIC EDUCATION CERTIFICATED INSTRUCTIONAL STAFF SALARY FOR THE PURPOSE OF APPORTIONMENT.** Each school district's average basic education certificated instructional staff salary for the purpose of apportioning state general fund moneys to school districts pursuant to RCW 28A.41.130 and 28A.41.140, chapter 2, Laws of 1987 1st ex. sess., and the biennial Operating Appropriations Act, shall be determined by the superintendent of public instruction as provided in this section.

(1) For the 1987-88 school year each district's average basic education certificated instructional staff salary shall be the greater of:

(a) The district average basic education certificated instructional staff salary per placement on the state-wide salary allocation schedule; or

(b) The district actual average annual basic education certificated instructional staff salary for the 1986-87 school year improved by 2.1 percent; or

(c) The district's 1986-87 derived base salary for basic education certificated instructional staff as shown on LEAP Document 11, multiplied by the district's average staff mix factor for 1987-88 basic education certificated instructional staff, and further increased by 2.1 percent.

(2) For the 1988-89 school year each district's average basic education certificated instructional staff salary shall be the greater of:

(a) The district average basic education certificated instructional staff salary per placement on the 1988-89 state-wide salary allocation schedule; or

(b) For districts which received salary allocations for the 1987-88 school year under subsection (1)(b) or (c) of this section, the district's actual 1987-88 derived base salary for basic education certificated instructional staff, multiplied by the district's average staff mix factor for 1988-89 basic education certificated instructional staff, and further increased by 2.1 percent.

### APPORTIONMENT

#### NEW SECTION

**WAC 392-121-400 PAYMENT OF BASIC EDUCATION ALLOCATION FUNDS.** From the basic education allocation funds appropriated to the superintendent of public instruction, the superintendent shall make twelve monthly payments during each school year pursuant to RCW 28A.48.010 to each school district operating a program approved by the state board of education: PROVIDED, That each school district submits data in a timely manner as requested by the superintendent of public instruction.

Initial monthly payments shall be based on estimates of such data as the superintendent of public instruction deems necessary to commence payment for the school year, such estimates to be submitted by school districts to the educational service districts or superintendent of public instruction on forms provided by the superintendent of public instruction. The latest date on which a school district may make changes in these data shall be the date on which the school district files its budget with the educational service district.

As the school year progresses, monthly payments to school districts shall be adjusted to reflect actual full-time equivalent students enrolled, district average basic education certificated instructional staff salary per placement on the state-wide salary allocation schedule, other school district characteristics, deductible revenues and such other data as are deemed necessary by the superintendent and reported by school districts and other governmental agencies on forms provided or approved by the superintendent of public instruction. The superintendent of public instruction annually shall advise each school district and educational service district of the dates on which data are required to be submitted to educational service districts or the superintendent of public instruction and dates on which payments will be made to school districts.

#### NEW SECTION

**WAC 392-121-405 TERMINATION OF AN INTERDISTRICT COOPERATIVE AGREEMENT.** Any school district that terminates an interdistrict cooperative agreement established pursuant to chapter 392-135 WAC for which the superintendent of public instruction executes a transfer of basic education funds for apportionment purposes shall inform the superintendent of public instruction and the serving district of the termination in writing. The superintendent of public instruction shall adjust the involved districts' apportionment after the written notification of termination has been received.

NEW SECTION

WAC 392-121-415 BASIC EDUCATION ALLOCATION—DEDUCTIBLE REVENUES. In addition to those funds appropriated by the legislature for basic education allocation purposes, the deductible revenues expressly identified in RCW 28A.41.130 and the following deductible general fund revenues shall be included in the computation of the total annual basic education allocation of each school district pursuant to RCW 28A.41.130 and 28A.41.140:

(1) Proceeds from the sale of tax title real property managed by a county or of property rights appurtenant thereto;

(2) Proceeds from the sale, rental or lease of stone, minerals, timber, forest products, other crops and matter, and improvements from or on tax title real property managed by a county;

(3) Proceeds from state forests;

(4) Federal in lieu of tax payments; and

(5) County in lieu of tax payments.

Otherwise deductible revenues from any of the foregoing sources received by a school district due solely to the district's levy of a capital projects fund or debt service fund excess tax levy shall constitute nongeneral fund revenues and shall not be deducted in the computation of the district's annual basic education allocation for that school year.

NEW SECTION

WAC 392-121-420 BASIC EDUCATION ALLOCATION—FEDERAL FOREST FUNDS. The superintendent of public instruction shall distribute federal forest funds pursuant to RCW 28A.02.310 and 28A.41.130.

NEW SECTION

WAC 392-121-425 BASIC EDUCATION ALLOCATION DURING STRIKE. Unless a school district's program is disapproved in accordance with WAC 180-16-162 through 180-16-164, basic education allocations shall continue for the period of a strike.

NEW SECTION

WAC 392-121-430 KINDERGARTEN AND GRADE ONE THROUGH TWELVE PROGRAMS CONSIDERED COLLECTIVELY—FAILURE TO OPERATE AN APPROVED PROGRAM—DENIAL OF APPORTIONMENT. For the purpose of this chapter, a school district's scheduled kindergarten and grade one through twelve programs shall be considered collectively. The total program of a district may not be subdivided for the purpose of applying program approval standards. Those school days which are conducted during the period of a strike following transmittal of a notice of disapproval shall be discounted for state basic education entitlement purposes at the rate of one hundred-eightieth of the district's basic education entitlement for the school year per school day: PROVIDED, That kindergarten and grade one through twelve programs shall be considered separately for the purpose of

computing compliance with minimum school day requirements and any loss of basic education entitlement.

NEW SECTION

WAC 392-121-440 EMERGENCY ADVANCE PAYMENTS. A school district may petition the superintendent of public instruction for an emergency advance on the district's basic education allocation not to exceed ten percent of the total amount to become due and apportionable to the district from September 1 through June 30 of the school year. Emergency advances may be granted under the following conditions:

(1) It is probable that the district will be on an interest-bearing, warrant-issuing basis two months following the petition if an advance is not paid.

(2) It is probable that the district will be on warrant interest for at least three months during the period September through June if an advance is not paid.

(3) The district shall not have cash investments of the general fund or an interfund loan from the general fund during the months it expects to be on warrant interest.

(4) The board of directors of the school district has adopted a petition for the emergency advance which sets forth the following:

(a) The nature of the emergency requiring the advance;

(b) The net cash balance of the general fund as of the date of petition;

(c) A forecast of the general fund net cash balance for each month remaining in the fiscal year; and

(d) The percentage requested to be advanced.

NEW SECTION

WAC 392-121-442 FORFEITURE OF EARNINGS ON EMERGENCY ADVANCE. The superintendent of public instruction shall deduct from a school district's basic education allocation apportionment entitlement the amount of any earnings by the school district on the investment of a temporary cash surplus due to a previously obtained emergency advance.

NEW SECTION

WAC 392-121-445 PROCEDURE FOR CREDITING PORTION OF BASIC EDUCATION ALLOCATION FOR CAPITAL PURPOSES IN SCHOOL DISTRICTS. If a local school district board of directors wishes to direct a portion of the district's annual basic education allocation to the school district's capital projects fund or debt service fund pursuant to RCW 28A.41.143, the district board shall execute a resolution requesting the superintendent of public instruction to pay a portion of that allocation to the credit of the district's capital projects fund and/or debt service fund. Such board resolutions should specify the justification in detail and the dollar amount to be credited to the capital projects fund and/or debt service fund. Such resolution should be received by the superintendent of public instruction on or before the tenth of the month when payment to the building and capital projects fund and/or bond interest and redemption fund is to begin. Without a properly executed resolution, the superintendent of

public instruction shall pay all state apportionment due and apportionable to the credit of the school district's general fund. Such moneys paid to any fund pursuant to this section cannot be subsequently transferred to the credit of another fund.

Resolutions requesting the superintendent of public instruction to direct a portion of the district's basic education allocation to the capital projects fund and/or the debt service fund will not be approved by the superintendent of public instruction if the loss of general fund revenue to the district will result in an out-of-balance general fund budget. Any school district that would have an out-of-balance general fund budget after the potential loss of general fund revenue which would result from such a redirection of revenue shall revise the general fund budget document to be in balance following appropriate budget modification or extension procedures in order for the superintendent of public instruction to approve the resolution. A budget modification or extension may be necessary for the capital projects fund and/or debt service fund.

Upon approval of the resolution by the superintendent of public instruction, payments will commence to the capital projects fund and/or debt service fund in accordance with the apportionment schedule set forth in RCW 28A.48.010. Such payments shall reduce general fund apportionment payments by the full amount of the approved resolution in the month payment begins. If the amount of the approved resolution exceeds the entire monthly apportionment payment in the month payment begins, the entire apportionment payment will be paid to the fund(s) designated in the resolution until the amount of the approved resolution is paid, subject to moneys available in the district's basic education allocation.

#### NEW SECTION

WAC 392-121-460 FIRE DISTRICT ALLOCATION. In addition to those moneys distributed for basic education purposes, school districts are entitled per RCW 52.30.020 to be reimbursed for moneys expended for the purchase of fire protection services from fire protection districts. Only school plants located in a fire protection district established pursuant to Title 52 RCW shall be eligible for such moneys.

Payment to districts shall be made each July as a part of the monthly apportionment allocation.

The headcount enrollment used to compute each district's reimbursement will be as of October 1 of the school year for which the allocation is being made. The count shall be entered on forms provided to school districts by the superintendent of public instruction.

Any moneys allocated to school districts for the purpose stated in this rule and not used for this purpose shall be recovered by the superintendent of public instruction from a district's monthly apportionment allocation.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-121-101 AUTHORITY.

WAC 392-121-103 PURPOSE.

WAC 392-121-105 DEFINITIONS—ENROLLED AND FULL-TIME EQUIVALENT STUDENT.

WAC 392-121-110 ADDITIONAL DEFINITIONS.

WAC 392-121-115 DEFINITIONS—CERTIFICATED AND CLASSIFIED EMPLOYEES—FULL-TIME EQUIVALENT.

WAC 392-121-120 DEFINITION—LEAP DOCUMENT 1.

WAC 392-121-121 DEFINITION—CERTIFICATED STAFF MIX FACTOR.

WAC 392-121-125 DEFINITION—DISTRICT CERTIFICATED STAFF MIX FACTOR.

WAC 392-121-126 DEFINITION—SYSTEM-WIDE CERTIFICATED STAFF MIX FACTOR.

WAC 392-121-127 PRORATION OF SCHOOL DISTRICT CERTIFICATED STAFF MIX FACTOR.

WAC 392-121-128 DEFINITION—CLASSIFIED INCREMENT MIX FACTOR.

WAC 392-121-129 DEFINITION—DISTRICT CLASSIFIED INCREMENT MIX FACTOR.

WAC 392-121-130 DEFINITION—CERTIFICATED YEARS OF EXPERIENCE.

WAC 392-121-131 DEFINITION—CLASSIFIED YEARS OF EXPERIENCE.

WAC 392-121-135 DEFINITION—HIGHEST DEGREE LEVEL.

WAC 392-121-140 DEFINITION—CREDITS EARNED SINCE HIGHEST DEGREE.

WAC 392-121-145 PLACEMENT OF NONDEGREE CERTIFICATED PERSONNEL ON LEAP DOCUMENT 1.

WAC 392-121-150 PLACEMENT OF CERTIFICATED STAFF WITH DEGREES ON CERTIFICATED STAFF MIX TABLE.

WAC 392-121-155 PLACEMENT ON CERTIFICATED STAFF MIX TABLE—DOCUMENTATION REQUIRED.

WAC 392-121-160 REPORTING REQUIREMENTS—GENERAL.

WAC 392-121-165 PAYMENT OF BASIC EDUCATION ALLOCATION FUNDS.

WAC 392-121-170 BASIC EDUCATION ALLOCATION—RESIDENT AND NONRESIDENT STUDENTS.

WAC 392-121-175 BASIC EDUCATION ALLOCATION—DEDUCTIBLE REVENUES.

WAC 392-121-176 BASIC EDUCATION ALLOCATION DURING STRIKE.

WAC 392-121-177 KINDERGARTEN AND GRADE ONE THROUGH TWELVE PROGRAMS CONSIDERED COLLECTIVELY—FAILURE TO OPERATE AN APPROVED PROGRAM—DENIAL OF APPORTIONMENT.

WAC 392-121-180 ENROLLMENT TIME CREDIT—OFF-CAMPUS—ALTERNATIVE LEARNING EXPERIENCES—STUDY TIME—NATIONAL GUARD—ABSENCES.

WAC 392-121-185 ADVANCE PAYMENTS—EMERGENCY.

WAC 392-121-186 PROCEDURE FOR CREDITING PORTION OF BASIC EDUCATION ALLOCATION FOR CAPITAL PURPOSES IN SCHOOL DISTRICTS.

WAC 392-121-190 REPORTING REQUIREMENTS.

WAC 392-121-195 FIRE DISTRICT ALLOCATION.

**WSR 88-03-014**

**PROPOSED RULES**

**DEPARTMENT OF COMMUNITY DEVELOPMENT  
(Fire Protection Services Division)**

[Filed January 11, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Community Development intends to adopt, amend, or repeal rules concerning fireworks, chapter 212-17 WAC;

that the agency will at 9:00 a.m., Friday, February 26, 1988, in the 9th and Columbia Building, 5th Floor Conference Room, Olympia, 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 70.77 RCW.

The specific statute these rules are intended to implement is chapter 70.77 RCW, state fireworks law.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 26, 1988.

Dated: January 11, 1988

By: Chuck Clarke  
Director

**STATEMENT OF PURPOSE**

Rules of the director of Fire Protection Services related to fireworks.

Purpose of this Amendment: To change the title of the enforcing authority to be consistent with state law, and to clarify existing requirements for the transport, storage and sale of fireworks.

This Rule: Is adopted pursuant to RCW 70.77.250; implements the state fireworks law, chapter 70.77 RCW; deletes the term "state fire marshal" and inserts in its place the term "director of fire protection"; clarifies the conditions under which fireworks may be transported, stored or sold, and provides specific requirements for reporting firework sales to the director of fire protection; and is necessary for the protection of life and property and the proper administration and enforcement of the state fireworks law.

Agency Person Responsible for the Administration and Enforcement of this Rule: George Eastman, Director of Fire Protection, Department of Community Development, 9th and Columbia Building, Mailstop GH-51, Olympia, WA 98504-4151, phone (206) 586-3442.

The Fire Protection Services Division of the Department of Community Development is proposing this rule.

This rule is not the result of any federal law or court decision.

Adoption of this rule does not have an adverse impact on small business.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-001 TITLE. These rules shall be known as the "rules of the ((state fire marshal)) director of fire protection relating to fireworks," and may be cited as such.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-010 PURPOSE. The purpose of these rules is to implement the state fireworks law, chapter 70.77 RCW, administered and enforced by the ((state fire marshal)) director of fire protection.

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

WAC 212-17-060 PUBLIC PURCHASE OF FIREWORKS. (1) The public may purchase common fireworks only from licensed retail fireworks stands between noon, June 28th and noon, July 6th of each year. Purchase or discharge is prohibited between the hours of 11:00 p.m. and 9:00 a.m. Possession and discharge of fireworks is lawful during this period only, except as provided in subsection (2) of this section.

(2) Religious organizations or private organizations or adult persons may be authorized to purchase common fireworks or such audible ground devices as firecrackers, salutes, and chasers, as defined in WAC 212-17-040 (3) and (4) from licensed manufacturers, importers, or wholesalers for use on prescribed dates and locations for religious or specific purposes, when a permit is obtained from the fire chief or other designated local official. Application shall be on forms provided by the ((state fire marshal)) director of fire protection and shall contain the following information: (a) The name and mailing address of the organization or person desiring to purchase and discharge the fireworks; (b) the date and time of the proposed discharge; (c) the location of the proposed discharge; (d) the quantity and type of fireworks desired to be purchased and discharged; (e) the reason or purpose of the discharge; and (f) the signature of the applicant, following a statement that: "The applicant understands and agrees to comply with all provisions of the application and requirements of the approving authority, will discharge the fireworks only in a manner that will not endanger persons or property or constitute a nuisance, and assumes full responsibility for all consequences of the discharge, intended or not." Upon approval by the fire official, the applicant may submit a copy of the approval to any licensed wholesaler as proof of authorization to purchase the fireworks listed therein. The applicant shall retain the approval and have it available for inspection by any public official at the actual discharge of the fireworks.

(3) The purchase or receipt of mail-order fireworks through any medium of either interstate or intrastate commerce is prohibited unless the purchaser has first obtained an importers license or has complied with the provisions of subsection (2) of this section.

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

WAC 212-17-065 FIREWORKS MANUFACTURER—GENERAL. Persons intending to manufacture fireworks in this state shall procure a license from the ((state fire marshal)) director of fire protection and a permit from the local governmental agency having jurisdiction prior to engaging in business. Applications for license shall be made on forms provided by the ((state fire marshal)) director of fire protection and the annual license fee shall accompany the application. License applications shall be made on or before January 31 of the year for which the license is desired. Fireworks manufacturers domiciled in other than the state of Washington shall have a designated agent in the state of Washington, registered with the ((state fire marshal)) director of fire protection.

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

WAC 212-17-070 FIREWORKS MANUFACTURER—LICENSING. Upon receipt of application and license fee, the ((state fire marshal)) director of fire protection will cause an investigation to be made. If the investigation discloses compliance with state laws governing the manufacture of fireworks and that granting of a license would not be contrary to public safety or welfare, a license will be granted. If the license is denied, then the applicant shall be notified in writing of the reason why license was denied, and he shall be given an opportunity to make such alterations and corrections as are deemed necessary. License applications shall be either granted or denied by the ((state fire marshal)) director of fire protection within ninety days following receipt of a properly submitted or amended application.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-085 FIREWORKS MANUFACTURER—RECORDS AND REPORTS. Manufacturers shall, when requested to do so, submit written reports on production, sale and distribution of fireworks and name of the person to whom such fireworks were sold to the ((state fire marshal)) director of fire protection.

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

WAC 212-17-115 FIREWORKS WHOLESALER—GENERAL. Fireworks wholesaler licenses cover those persons engaged in the business of selling fireworks at wholesale to licensed persons in this state. Wholesale licensees may transport the class of fireworks for which they hold a valid license. Fireworks wholesalers domiciled in other than the state of Washington shall have a designated agent in the state of Washington, registered with the ((state fire marshal)) director of fire protection.

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

WAC 212-17-120 FIREWORKS WHOLESALER—LICENSING. Persons intending to engage in the sale of fireworks at wholesale in this state shall procure a license from the ((state fire marshal)) director of fire protection. A permit from the local governmental agency having jurisdiction shall also be obtained for the storage of all classes and types of fireworks in possession of the wholesaler licensee. The application shall be made on forms provided by the state fire marshal and the annual license fee shall accompany the application. License applications shall be made on or before January 31 of the year for which the license is desired.

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

WAC 212-17-125 FIREWORKS WHOLESALER—INVESTIGATION. Upon receipt of an application and the license fee, the ((state fire marshal)) director of fire protection will cause an investigation to be made. If the investigation discloses compliance with state laws governing fireworks and that granting of a license would not be contrary to public safety or welfare, a license will be granted. If the license is denied, then the applicant shall be notified in writing of the reason why the license was denied, and he shall be given an opportunity to make such alterations and corrections as are deemed necessary. License applications shall be either granted or denied by the ((state fire marshal)) director of fire protection within ninety days following receipt of a properly submitted or amended application.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-135 FIREWORKS WHOLESALER—LICENSE LIMITATIONS. (1) A fireworks wholesaler's license authorizes the holder to engage only in the sale of fireworks at wholesale. A fireworks wholesaler's license entitles him to sell fireworks to licensed retailers, licensed public display operators, other licensed wholesalers, religious organizations or private organizations or adult persons authorized to purchase specific fireworks items in accordance with WAC 212-17-060(2). Fireworks wholesaler licensees desiring to engage in other

types of fireworks business shall first secure the necessary license as required by the state fireworks law.

(2) By virtue of its license, a licensed fireworks wholesaler is permitted to sell fireworks for direct shipment out of this state. Such shipment must be made by a public carrier or by the wholesaler in vehicles owned or leased by the wholesaler.

(3) It is unlawful for a licensed fireworks wholesaler to sell fireworks, at wholesale or retail, for direct shipment out of this state, or delivery into another state, to any person who does not possess and present to the wholesaler for inspection at the time of sale, a valid license and/or permit, where such a license and/or permit is required to purchase, possess, transport, store, distribute, sell, or otherwise deal with or use fireworks by the laws of such other state specifically prohibiting or regulating the use of fireworks.

(4) The burden of ascertaining whether the laws of such other state require a license and/or permit and whether the purchaser possesses such a valid license and/or permit shall be entirely on the wholesaler. The wholesaler shall record, in a manner prescribed by the director of fire protection, each sale as described in this section, to include the type and quantity of fireworks sold, name of purchaser, state of destination, state issuing license and/or permit, and number or other identifying description and date of issue of license and/or permit.

(5) Each sale of fireworks in violation of this section shall be considered a separate offense. Notwithstanding the existence or use of any other remedy, any wholesaler violating this section may be enjoined from continuing such violation.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-140 FIREWORKS WHOLESALER—RECORDS AND REPORTS. (1) The licensee shall maintain and make available to the ((state fire marshal)) director of fire protection full and complete records including imports, purchases, sales, and consumption of fireworks items by kind and class.

(2) The licensee shall file a report annually of all fireworks transactions during the calendar year by class and kind, including imports, purchases, sales and consumption. Reports shall be on forms as provided by the director of fire protection and must be filed with the director of fire protection at the time application is made for renewal of the wholesaler's license or before. Supporting records to verify the totals included in the report shall be maintained and made available for review by the director of fire protection.

(3) Additional reports, as may be determined necessary by the director of fire protection for the proper administration of the state fireworks law, shall be submitted as requested in a timely manner.

(4) Information provided pursuant to this chapter shall be considered proprietary and therefore not subject to disclosure, only insofar as such exemption is provided by chapter 42.17 RCW.

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

WAC 212-17-170 IMPORTERS OF FIREWORKS—LICENSING. Every person who desires to import fireworks to this state shall file application and procure a license. Application shall be made on forms provided by the ((state fire marshal)) director of fire protection and shall be accompanied by the required license fee. License applications shall be made on or before January 31 of the year for which the license is desired. The application shall be either granted or denied by the ((state fire marshal)) director of fire protection within ninety days following receipt of a properly submitted or amended application.

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

WAC 212-17-185 RETAILERS OF FIREWORKS—GENERAL. Persons desiring to engage in the business of selling fireworks at retail shall secure a license from the ((state fire marshal)) director of fire protection. In addition to the state license, a permit must be obtained from the local governmental officials having jurisdiction. The application shall be made on forms provided by the ((state fire marshal)) director of fire protection and shall be accompanied by the license fee of ten dollars. License applications shall be made on or before June 10 of the year for which the license is desired. The ((state fire marshal)) director of fire protection shall grant or deny the license

within fifteen days of receipt of the application. Applicants are cautioned to first determine whether a local retail sales permit for fireworks can be obtained. A retailer's license to sell fireworks shall not authorize licensee to engage in any other fireworks activity. Retailers are limited to selling only those fireworks which have been approved for sale to the public and appear on the list of approved fireworks published annually by the ~~((state fire marshal))~~ director of fire protection. A copy of the list shall be prominently posted at each retail outlet.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-195 RETAILERS OF FIREWORKS—SALES LOCATIONS. (1) Fireworks sold at retail shall be sold only:

- (a) In roadside stands; or
- (b) Buildings used for no other purpose.
- (2) Roadside stands shall meet all applicable fire codes for temporary structures and shall be separated from public ways, property lines, and permanent structures as required by local officials.

(3) Buildings shall be permanent structures of not over five hundred square feet in area, used exclusively for retail firework sales. "Building," for this purpose, does not include subdivided areas within a building or structure. Buildings used for retail firework sales shall be separated from other buildings in which flammable or combustible materials or fireworks are stored, or in which people regularly congregate, by a minimum distance of fifty feet.

(4) Fireworks offered for retail sale in a roadside stand or building must be protected from direct contact and handling by the public at all times. Self-serve or marketing where retail customers are allowed to move among stocks of fireworks or serve themselves from fireworks stocks or displays is strictly prohibited. A sales clerk must be on duty to serve the customer at the time of purchase.

(5) Each retail fireworks location shall have not less than two water-type extinguishers of not less than two and one-half gallon capacity or alternate equipment deemed equivalent by the local fire authority.

~~((3))~~ (6) During the hours that a fireworks stand or location is not open for business, it shall be closed and locked unless all fireworks have been removed.

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

WAC 212-17-203 RETAILERS OF FIREWORKS—LIST TO BE POSTED. Retailers shall post prominently at each retail outlet a list of the fireworks that may be sold to the public. The posted list shall be in a form approved by the ~~((state fire marshal))~~ director of fire protection. The ~~((state fire marshal))~~ director of fire protection shall make available the list.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-225 PYROTECHNIC OPERATORS—APPLICATION FOR LICENSE. Application for license shall be made on forms prepared by the ~~((state fire marshal))~~ director of fire protection and shall be accompanied by the annual license fee. Every applicant for a pyrotechnic operators license shall take and pass a written examination administered by the ~~((state fire marshal))~~ director of fire protection and shall submit evidence attesting to the qualifications and experience of the applicant, including participation in the firing of at least six public displays as an assistant, at least one of which shall have been in the current or preceding year.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-230 PYROTECHNIC OPERATORS—EXAMINATION, INVESTIGATION AND LICENSING. Upon receipt of application and license fee, the ~~((state fire marshal))~~ director of fire protection shall cause an investigation to be made as to the experience and competency of the applicant to conduct and supervise a public display of fireworks in a safe manner. Past experience in assisting in public displays shall be verified with the licensed pyrotechnic operator under whose supervision the applicant assisted. If experience requirements are satisfactory, the ~~((state fire marshal))~~ director of fire protection shall schedule a written examination for the applicant. A passing score of at least seventy percent shall be attained on the written examination. An applicant failing the written examination may reapply within thirty days to retake the examination. No reexamination shall

be taken within thirty days of the previous and no more than two examinations may be taken by the applicant in the same calendar year. Any applicant failing to appear for the written examination at the time and location established or who fails the written examination and fails to reapply within thirty days, or fails the examination on the second attempt, is deemed to have forfeited the license fee. The ~~((state fire marshal))~~ director of fire protection shall grant or deny the license on the basis of the investigation and examination.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-235 PYROTECHNIC OPERATORS—RESPONSIBILITY. The pyrotechnic operator shall be responsible for properly setting up the fireworks public display in accordance with the rules and regulations of the ~~((state fire marshal))~~ director of fire protection. He shall determine that all the mortars, set pieces, are properly installed and that the proper safety precautions have been taken to insure the safety of persons and property. He shall have charge of all activities directly related to handling, preparing and firing all fireworks at the public display, including fixing lifting charges and quick match as needed to aerial shells.

The pyrotechnic operator shall refuse to fire any fireworks that are deemed by him to be unsafe or where its discharge might jeopardize life or property.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-245 PUBLIC DISPLAYS OF FIREWORKS—GENERAL. Persons desiring to hold a public display of fireworks shall secure a license from the ~~((state fire marshal))~~ director of fire protection and a permit from the governmental agency having jurisdiction. Application for local permit must be made at least ten days in advance.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-250 APPLICATION, STATE LICENSE. Application for fireworks public display license shall be made on forms provided by the ~~((state fire marshal))~~ director of fire protection and shall be accompanied by the prescribed license fee.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-260 GENERAL LICENSES. Application for a "general" license to hold public displays of fireworks shall be accompanied by a surety bond or a certificate evidencing public liability insurance. Such bond and public liability insurance shall be noncancellable except upon fifteen days' written notice by the insurer to the ~~((state fire marshal))~~ director of fire protection.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-265 REPORTS. General public display permit application licensees shall submit Part III of the fireworks display permit application to the ~~((state fire marshal))~~ director of fire protection, prior to date of each display contemplated under their general license.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-270 LOCAL PERMIT, APPLICATION FOR. When applying for permit, applicant shall submit information and evidence to local fire authorities covering the following:

- (1) The name of the organization sponsoring the display, if other than the applicant.
- (2) The date the display is to be held.
- (3) The exact location for the display.
- (4) The name and license number of the pyrotechnic operator who is to supervise discharge of the fireworks and the name of at least one experienced assistant.
- (5) The number of set pieces, shells (specify single or multiple break), and other items.
- (6) The manner and place of storage of such fireworks prior to the display.

(7) A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways, and other lines of communication, the lines behind which the audience will be restrained, the location of all nearby trees, telegraph or telephone lines, or other overhead obstruction.

(8) Documentary proof of procurement of:

Surety bond;  
Public liability insurance; or  
A ~~((state fire marshal's))~~ director of fire protection's "general license" for the public display of fireworks.

(10) Permittee shall be responsible for compliance with the provisions under which a public display permit has been granted.

**AMENDATORY SECTION** (Amending Order FM 82-10, filed 11/2/82)

**WAC 212-17-335 PUBLIC DISPLAY—FIRING OF SHELLS.**

(1) Shells shall be carried from the storage area to the discharge site only by their bodies, never by their fuses.

(2) Shells shall be checked for proper fit in their mortars prior to the display.

(3) When loaded into mortars, shells shall be held by the thick portion of their fuses and carefully lowered into the mortar. At no time shall the operator place any part of his body over the throat of the mortar.

(4) The operator shall be certain that the shell is properly seated in the mortar.

(5) Shells shall not, under any circumstances, be forced into a mortar too small to accept them. Shells that do not fit properly into the mortars shall not be fired; they shall be disposed of according to the supplier's instructions.

(6) Shells shall be ignited by lighting the tip of the fuse with a fusee, torch, portfire, or similar device. The operator shall never place any part of his body over the mortar at any time. As soon as the fuse is ignited, the operator shall retreat from the mortar area.

(7) The safety cap protecting the fuse shall not be removed by the operator responsible for igniting the fuse until immediately before the shell is to be fired.

(8) The first shell fired shall be carefully observed to determine that its trajectory will carry it into the intended firing range and that the shell functions over, and any debris falls into, the potential landing area.

(9) The mortars shall be re-angled or reset if necessary at any time during the display.

(10) In the event of a shell failing to ignite in the mortar, the mortar shall be left alone for a minimum of five minutes, then carefully flooded with water. Immediately following the display, the mortar shall be emptied into a bucket of water. The supplier shall be contacted as soon as possible for proper disposal instructions.

(11) Operators shall never attempt to repair a damaged shell nor shall they attempt to dismantle a dry shell. In all such cases, the supplier shall be contacted as soon as possible for proper disposal instructions.

(12) Operators shall never dry a wet shell, lance, or pot for reuse. In such cases, the shell, lance, or pot shall be handled according to disposal procedures.

(13) The entire firing range shall be inspected immediately following the display for the purpose of locating any defective shells. Any shells found shall be immediately doused with water before handling. The shells shall then be placed in a bucket of water. The supplier shall then be contacted as soon as possible for proper disposal instructions.

(14) When fireworks are displayed at night, the licensee shall insure that the firing range is inspected early the following morning.

(15) The operator of the display shall keep a record, on a form provided by the ~~((state fire marshal))~~ director of fire protection, of all shells that failed to ignite or fail to function. The form shall be completed and returned to the ~~((state fire marshal))~~ director of fire protection. Failures shall also be reported to the supplier.

**AMENDATORY SECTION** (Amending Order FM 82-10, filed 11/2/82)

**WAC 212-17-345 REPORTS.** After every public display, it shall be the responsibility of the licensed pyrotechnic operator in charge of the display to submit a written report to the ~~((state fire marshal))~~ director of fire protection, within ten days following the display, covering:

(1) A brief report of any duds, defective shells, with manufacturer's name, and the type and size of shell.

(2) A brief account of the cause of injury to any person(s) from fireworks and such person's name and address.

(3) A brief account of any fires caused by fireworks.

(4) Any violation of the state fireworks law or of these regulations relating to public display fireworks, with special observations on any irregularities on the part of persons present at the firing site.

(5) The names of pyrotechnic assistants who satisfactorily assisted in all phases of the display, if other than those shown on the license.

Failure to file this report shall constitute grounds for revocation of the operator's current license and/or rejection of his application for his license renewal.

**NEW SECTION**

**WAC 212-17-352 TRANSPORTATION—BY COMMON CARRIER.** No common carrier, as defined in RCW 81.29.010, shall deliver fireworks from an out-of-state shipper to any person or firm within this state without first determining that the person or firm possesses an importer's license, issued by the director of fire protection to receive them, or the shipper has an importer's license, issued by the director of fire protection to ship them into this state.

**NEW SECTION**

**WAC 212-17-362 STORAGE—BY COMMON CARRIER.** No common carrier shall store fireworks while in transit within a building without first obtaining a storage permit from the local fire authority.

**WSR 88-03-015**

**ADOPTED RULES**

**DEPARTMENT OF LICENSING**

**(Securities Division)**

[Order SDO-164A-87—Filed January 11, 1988]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at the Highways—Licenses Building, Olympia, Washington, the annexed rules relating to the regulation and registration of securities under the Securities Act of Washington, chapter 21.20 RCW as follows:

Amd	WAC 460-16A-050	Opinion of counsel.
Amd	WAC 460-16A-105	Release provisions.
Amd	WAC 460-16A-106	Terms of escrow.
Amd	WAC 460-16A-108	Inapplicability of restrictions on amount of promotional shares.
Amd	WAC 460-16A-109	Hi-tech exemption from promotional shares rules.
Amd	WAC 460-16A-110	Rights of promotional shares.
Amd	WAC 460-16A-126	Annual revision of offering circular.
New	WAC 460-16A-101	Application to promotional shares.
New	WAC 460-16A-102	Definitions applicable to promotional shares.
New	WAC 460-16A-103	Amount of promotional shares.
New	WAC 460-16A-104	Escrow of promotional shares.
Rep	WAC 460-16A-100	Number of outstanding options.
Rep	WAC 460-16A-107	Amount of cheap stock.
Rep	WAC 460-16A-130	Escrow.
Rep	WAC 460-16A-135	Operation of escrow.
Rep	WAC 460-16A-140	Consent to transfer escrowed shares.
Rep	WAC 460-16A-145	Restrictions on dividends/distribution for promotional shares.

This action is taken pursuant to Notice No. WSR 87-21-084 filed with the code reviser on October 21, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

WAC 460-16A-101, 460-16A-102, 460-16A-103, 460-16A-104, 460-16A-105 and 460-16A-106 are

promulgated pursuant to RCW 21.20.250 and are intended to administratively implement that statute and RCW 21.20.450 which directs that the director of the Department of Licensing implement the provisions of chapter 21.20 RCW.

WAC 460-16A-050, 460-16A-108, 460-16A-109, 460-16A-110 and 460-16A-126 are promulgated pursuant to RCW 21.20.450 which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 21.20 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 December 30, 1987.

By Theresa Anna Aragon  
Director

**AMENDATORY SECTION** (Amending Order 304, filed 2/28/75, effective 4/1/75)

WAC 460-16A-050 **OPINION OF COUNSEL.** There shall be submitted a signed or conformed copy of an attorney's opinion as to:

- (1) The legality of form and status of existence of the registrant;
- (2) Status of litigation in which the registrant is involved or of which the attorney has actual notice that may be pending or threatened.

**NEW SECTION**

WAC 460-16A-101 **APPLICATION TO PROMOTIONAL SHARES.** The director has determined it to be in the public interest and consistent with the goals of investor protection in public offerings of corporate equity securities to provide rules to ensure that the potential rewards to public investors and to promoters bear a reasonable relationship to the respective risks assumed. The standards contained in WAC 460-16A-101 through 460-16A-106 apply to applications for registration by coordination or qualification of equity securities to be issued by corporations. Nothing contained in these rules shall prevent the securities administrator from considering variations in the application of any, or all, of the standards when such variations are justified in light of all the facts and circumstances surrounding a particular public offering.

**NEW SECTION**

WAC 460-16A-102 **DEFINITIONS APPLICABLE TO PROMOTIONAL SHARES.** As used in WAC 460-16A-101 through 460-16A-106, the terms listed below shall have the following meanings:

- (1) An "affiliate" means a person that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified herein.
- (2) The term "control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether

through the ownership of voting securities, by contract, or otherwise.

(3) The term "earnings per share" means after-tax earnings per share as computed according to generally accepted accounting principles before extraordinary items.

(4) "Equity security" means any common stock or similar security; or any instrument convertible, with or without consideration, into such a security, or carrying a warrant, option or right to subscribe to or purchase such a security; or any such warrant, option or right.

(5) "Person" means any individual, corporation, partnership, trust or other legal entity, or any unincorporated association or organization and includes the following: (a) Any relative, spouse, or relative of the spouse of the specified person; (b) any trust or estate in which the specified person or any of the persons specified in (a) of this subsection collectively own five percent or more of the total beneficial interest or of which any of such persons serve as trustee, executor, or in any similar capacity; and (c) any corporation or other organization (other than the issuer corporation) in which the specified person or any of the persons specified in (a) of this subsection are the beneficial owners collectively of five percent or more of any class of equity securities or five percent or more of the equity interest.

(6) The term "promoter" means: (a) Any person who, acting alone or in conjunction with one or more persons, directly or indirectly, takes the initiative in founding and organizing the business or enterprise of a corporation; (b) any person who, in connection with the founding or organizing of the business or enterprise of a corporation, directly or indirectly, receives in consideration of services or property or both services and property, five percent or more of any class of equity security of the corporation or five percent or more of the proceeds from the sale of any class of equity security of the corporation: **PROVIDED, HOWEVER,** That a person who receives such securities or proceeds solely as underwriting commissions shall not be deemed a promoter within the meaning of this clause if such person does not otherwise take part in founding and organizing the enterprise; (c) any person who is an officer, director, or who beneficially owns, directly or indirectly, more than five percent of any class of equity security of corporation, excluding any unaffiliated institutional investor that purchased its shares more than one year prior to the filing date of the proposed offering; (d) any person who is an affiliate of a person specified under (a), (b), or (c) of this subsection.

(7) The term "promotional or development stage corporation" means a corporation which has no public market for its shares and has no significant earnings.

(8) "Promotional shares" are equity securities which were issued within the last three years, or are to be issued, to promoters for a consideration of less than eighty-five percent of the proposed public offering price. Such securities which were, or are to be, issued for services rendered, patents, copyrights or other intangibles are presumed to be promotional shares unless the value of such intangibles has been established to the satisfaction of the administrator. (See Note #1)

Example: Calculation of number of promotional shares

	Shares	Total Price per Share
Shares held by promoters	100	\$ 1.00
Public offering price per share		10.00
<u>Total paid by promoter</u>		<u>\$100</u>
Public offering price per share x .85 =	$\$10 \times .85 =$	11.77
		Fully Paid Shares
Shares held by promoters		100
Fully paid shares		- 12*
Number of promotional shares (Subject to escrow)		<u>88</u>

\*Rounded

Note #1. In determining the consideration paid or the value of property under subsection (8) of this section, the administrator may disallow as consideration any property, including patents, copyrights, or goodwill, unless and to the extent that the value is established to the administrator's satisfaction. Consideration for shares of stock may include the market value of such assets if the market value can be determined by recognized standards of valuation acceptable to the administrator, and may also include out-of-pocket development or marketing expenses (excluding promoters' salaries) paid by promoters to the extent such expenses are not reimbursed by the corporation.

(9) "Public market" is meant to exclude thin markets which do not result in reliable prices. If doubt is raised as to the reliability of the market for an applicant's shares, the administrator may consider the market history, the public trading volume, the spread between the bid and asked prices, the number of market makers, public float, the pricing formula, and other relevant factors.

(10) "Significant earnings" shall be deemed to exist if the corporation's earnings record over the last five years (or the shorter period of its existence) demonstrates that it would have met either of the earnings tests set forth in WAC 460-16A-105(1) based upon its shares outstanding immediately before the proposed public offering capitalized at the proposed public offering price. However, such earnings tests shall not be deemed exclusive for the determination of significant earnings.

(11) An "unaffiliated institutional investor" means any unaffiliated bank; investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of the Investment Company Act of 1940; small business investment company licensed by the United States Small Business Administration under section 301 of the Small Business Investment Act of 1958; employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974; insurance company; private business development company as defined in section 202(a)(22) of the Investment Advisors Act of 1940 or comparable business entity engaged as a substantial part of its business in the purchase and sale of securities and which owns less than twenty percent of the securities to be outstanding at the completion of the proposed public offering.

NEW SECTION

WAC 460-16A-103 AMOUNT OF PROMOTIONAL SHARES. The maximum number of promotional shares shall not exceed seventy-five percent of the outstanding shares of the corporation after the completion of the offering.

NEW SECTION

WAC 460-16A-104 ESCROW OF PROMOTIONAL SHARES. The administrator shall require as a condition of registration by coordination or qualification that all promotional shares in excess of twenty-five percent of the shares to be outstanding upon completion of the offering be deposited in escrow absent adequate justification that escrow of such shares is not in the public interest and not necessary for the protection of investors. If such shares were issued by a promotional or development stage corporation and it is no longer in such a stage, then the escrow provisions of this section shall not apply. Notwithstanding the above, if a corporation issues any equity securities at less than eighty-five percent of the fair market value on the date of issuance, such shares may be deemed to be promotional shares and subject to the escrow provisions.

AMENDATORY SECTION (Amending Order 304, filed 2/28/75, effective 4/1/75)

WAC 460-16A-105 (~~AMOUNT OF PROMOTIONAL SHARES~~) RELEASE PROVISIONS. (~~In connection with the financing of an unseasoned corporation, a number of promotional shares (considered in conjunction with any selling expenses paid to promoters) may be issued which is not unreasonable. A number of promotional shares which does not exceed 25 percent of all of the common shares issued and proposed to be issued by the corporation is presumptively reasonable. However, additional promotional shares may be authorized in the light of the services rendered and other consideration given to the corporation by the promoters, the nature and circumstances of the business enterprise being promoted, and the identity of the investors. Normally, no promotional shares may be issued in connection with the financing of a seasoned corporation.~~) (1) Promotional shares which are to be escrowed shall remain in escrow until the administrator approves of their release. Each promoter's shares shall be released from escrow upon the achievement by the corporation of any of the following tests:

(a) After two consecutive fiscal years from the date of effectiveness, during which the corporation has minimum annual earnings per share equal to five percent of the public offering price. (See Note #2)

(b) After five fiscal years from the date of effectiveness, the average earnings per share are equal to five percent or more of the public offering price. (See Note #2)

Note #2. A request to the administrator for termination of an escrow based on satisfaction of any of the tests set forth in subsection (1)(a) or (b) of this section shall be accompanied by an earnings per share calculation audited and reported on by an independent certified public accountant.

(2) In the case of oil and gas exploration companies, the administrator may allow a test for release from escrow based upon the achievement of new proved developed reserves in lieu of the tests set forth in subsection (1) of this section.

(3) Shares may be released from escrow by the administrator if the public offering is terminated and no securities were sold pursuant thereto.

AMENDATORY SECTION (Amending Order 304, filed 2/28/75, effective 4/1/75)

WAC 460-16A-106 ((CHEAP STOCK)) TERMS OF ESCROW. ((Any securities sold or issued within five years prior to the public offering date to persons for consideration lower than the proposed net public offering price of such securities, including options and warrants exercised, in the absence of any public market for such securities or any substantial change in the earnings or financial position of the issuer, shall be presumed to be "cheap stock.")) (1) The shares in escrow may be transferred by will or pursuant to the laws of descent and distribution or through appropriate legal proceedings without the consent of the administrator, but in all cases the shares shall remain in escrow and subject to the terms of the escrow agreement. In addition, upon the death of a promoter, such promoter's escrowed shares may be hypothecated, subject to all of the terms of the escrow agreement, to the extent necessary to pay the expenses of the estate; otherwise, the escrowed shares may not be pledged to secure a debt. The securities in escrow may be transferred by gift to family members, provided the shares remain subject to the terms of the escrow agreement.

(2) The shares required to be held in escrow as a condition to registration by coordination or qualification of a public offering shall not have any right, title, interest, or participation in the assets of the corporation in the event of dissolution, liquidation, merger, consolidation, reorganization, sale of assets, exchange or any other transaction or proceeding which contemplates or results in the distribution of the assets of the corporation, until the holders of all shares not escrowed have received, or had irrevocably set aside for them, an amount equal to the purchase price per share in the public offering, adjusted for stock splits and stock dividends. Subsequently, the holders of the escrowed shares shall be entitled to receive an amount per share equal to the amount per share received by or set aside for the holders of the nonescrowed shares plus any dividends and interest set aside for the escrowed shares (to the extent any such cash dividends plus interest are not necessary to meet the corporation's obligation of payment to holders of shares not escrowed), and thereafter all shares shall participate on a pro rata basis. However, a merger, consolidation, or reorganization may proceed on terms and conditions different than those stated above if a majority of shares held by persons other than promoters approve the terms and conditions by vote at a meeting held for such purpose.

(3) Shares held in escrow shall continue to have all voting rights to which those shares are entitled. Any dividends paid on such shares shall be paid to the escrow

agent and held pursuant to the terms of the escrow agreement. The escrow agent shall treat such dividends as assets available for distribution as provided under subsection (2) of this section. The escrow agent shall place any cash dividends in an interest-bearing account. The cash dividends and any interest earned thereon will be disbursed when the shares are released from the escrow.

All certificates representing stock dividends and shares resulting from stock splits of escrowed shares shall be delivered to the escrow agent to be held pursuant to the escrow agreement.

(4) A summary of the terms of the escrow shall be included in the prospectus or offering circular and, during the term of the escrow agreement and until the release of all shares from escrow, in subsequent prospectuses or circulars, annual reports to shareholders, proxy statements, or other disclosure materials used by shareholders or investors in making decisions with respect to the corporation.

(5) The escrow agent must be satisfactory to the administrator and may not be affiliated with any promoter of the corporation. The company shall not bear any of the escrow agent's fees or expenses associated with the escrow.

AMENDATORY SECTION (Amending Order SDO-115-82, filed 10/5/82)

WAC 460-16A-108 INAPPLICABILITY OF RESTRICTIONS ON AMOUNTS OF ((CHEAP AND)) PROMOTIONAL SHARES. The restrictions and requirements on the amounts of ((cheap and)) promotional shares contained in WAC ((460-16A-107)) 460-16A-101 through 460-16A-106 shall not apply with respect to offerings as to which each of the following conditions is met:

(1) The offering shall be firmly underwritten by a syndicate of not less than fifteen investment banking firms, each of which firmly agrees to purchase for resale in the offering at least \$100,000 of securities; and

(2) The amount in the offering firmly underwritten by such syndicate of investment banking firms shall aggregate not less than \$4,000,000; and

(3) The offering price per share in said offering shall not be less than five dollars per share.

AMENDATORY SECTION (Amending Order SDO-39-84, filed 3/21/84)

WAC 460-16A-109 HI-TECH EXEMPTION FROM ((CHEAP STOCK)) PROMOTIONAL SHARES RULES. (1) "Hi-tech companies" do not have to comply with the provisions of WAC ((460-16A-106, 460-16A-107)) 460-16A-101 through 460-16A-106, and 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.

**AMENDATORY SECTION** (Amending Order 304, filed 2/28/75, effective 4/1/75)

WAC 460-16A-110 RIGHTS OF PROMOTIONAL SHARES. Promotional shares shall be equity securities without preference as to dividends, assets, or voting rights and shall have no greater rights per share than the securities issued for cash or its equivalent. (~~Normally promotional shares should be subject to escrow as provided by WAC 460-16A-130 of these rules.~~)

**AMENDATORY SECTION** (Amending Order 304, filed 2/28/75, effective 4/1/75)

WAC 460-16A-126 ANNUAL REVISION OF OFFERING CIRCULAR. The prospectus or offering circular shall be amended whenever there ((are)) is a material change((s)) which would affect the offering and in no event shall it be revised less often than every twelve months.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 460-16A-100 NUMBER OF OUTSTANDING OPTIONS.
- WAC 460-16A-107 AMOUNT OF CHEAP STOCK.
- WAC 460-16A-130 ESCROW.
- WAC 460-16A-135 OPERATION OF ESCROW.
- WAC 460-16A-140 CONSENT TO TRANSFER ESCROWED SHARES.
- WAC 460-16A-145 RESTRICTIONS ON DIVIDENDS/DISTRIBUTION FOR PROMOTIONAL SHARES.

**WSR 88-03-016  
PROPOSED RULES  
DEPARTMENT OF REVENUE  
[Filed January 11, 1988]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning Refunds—Rates of interest, amendatory section WAC 458-18-220;

that the agency will at 9:00 a.m., Wednesday, February 24, 1988, in the Department of Revenue Office, 6004 South Capitol Boulevard, Tumwater, 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 84.08.010(2) and 84.69.100.

The specific statute these rules are intended to implement is RCW 84.69.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 24, 1988.

Dated: January 7, 1988  
By: Trevor W. Thompson  
Assistant Director

**STATEMENT OF PURPOSE**

This statement of purpose, prepared in compliance with RCW 34.04.045, accompanies proposed rules to be promulgated by the Department of Revenue as follows:

Title: WAC 458-18-220 Refunds—Rate of interest.

Purpose: To establish the interest rate used for refunding property taxes.

Statutory Authority: RCW 84.69.100 requires the Department of Revenue to adopt property tax refund rates by rule.

Summary and Reasons for the Rule: RCW 84.69.100 provides for the interest rate to be used when property taxes are refunded under chapter 84.69 RCW. The law requires the department to adopt the interest by rule.

Drafter of the Rule, Rule Implementation and Enforcement: Trevor W. Thompson, 6004 South Capitol Boulevard, Tumwater, Washington 98501, (206) 753-5503.

Proposer of the Rule: Department of Revenue, Olympia, Washington 98504.

Comments and Recommendations: None.

Federal Law or Court Action Citation: None.

Small Business Impact: The department has determined that these rules will have no impact on small business.

**AMENDATORY SECTION** (Amending Order PT 87-7, filed 9/23/87)

WAC 458-18-220 REFUNDS—RATE OF INTEREST. The following rates of interest shall apply based upon the date the taxes were paid or the claim for refund was filed, whichever is later:

Prior to July 27, 1987	.0500	(5.00%)
<del>((On and after July 27, 1987</del>	<del>.0596</del>	<del>(5.96%))</del>
July 27, 1987 through December 31, 1987	.0596	(5.96%)
January 1, 1988 through December 31, 1988	.0600	(6.00%)

**WSR 88-03-017  
PROPOSED RULES  
DEPARTMENT OF REVENUE  
[Filed January 11, 1988]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning rates of inflation, amendatory section WAC 458-30-590;

that the agency will at 9:00 a.m., Wednesday, February 24, 1988, in the Department of Revenue Office, 6004 South Capitol Boulevard, Tumwater, 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 84.34.360.

The specific statute these rules are intended to implement is RCW 84.34.300 through 84.34.380.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 24, 1988.

Dated: January 7, 1988  
 By: Trevor W. Thompson  
 Assistant Director

**STATEMENT OF PURPOSE**

This statement of purpose, prepared in compliance with RCW 34.04.045, accompanies proposed rules to be promulgated by the Department of Revenue as follows:

Title: WAC 458-30-590 Rates of inflation.

Purpose: To establish rates of inflation.

Statutory Authority: RCW 84.34.360 requires the Department of Revenue to adopt rules to implement RCW 84.34.300 through 84.34.380.

Summary and Reasons for the Rule: The rates of inflation are used to determine the interest due on deferred special assessments on farm and agricultural lands when the assessments become payable.

Drafter of the Rule, Rule Implementation and Enforcement: Trevor W. Thompson, 6004 South Capitol Boulevard, Tumwater, Washington 98501, (206) 753-5503.

Proposer of the Rule: Department of Revenue, Olympia, Washington 98504.

Comments and Recommendations: None.

Federal Law or Court Action Citation: None.

Small Business Impact: The department has determined that the proposed rule has no impact on small business.

**AMENDATORY SECTION** (Amending Order PT 87-3, filed 3/10/87)

WAC 458-30-590 RATES OF INFLATION. The rates of inflation to be used for calculating the interest as required by WAC 458-30-550 are as follows:

Year	%	Year	%	Year	%
1976	5.7	1980	10.7	1984	3.8
1977	6.5	1981	9.2	1985	3.5
1978	7.3	1982	5.7	1986	2.1
1979	9.2	1983	4.1	1987	4.0

**WSR 88-03-018**  
**PROPOSED RULES**  
**LIBRARY COMMISSION**  
 [Filed January 11, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Library intends to adopt, amend, or repeal rules concerning Library Services and Construction Act Title II construction grant application process, chapter 304-12 WAC;

that the agency will at 10:00 a.m., Thursday, March 17, 1988, in the Conference Room, Timberland Regional Library Service Center, 415 Airdustrial Way S.W., Olympia, WA 98501, 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 27.04 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 17, 1988.

Dated: January 11, 1988  
 By: Nancy Zussy  
 State Librarian

**STATEMENT OF PURPOSE**

Title: Chapter 304-12 WAC, rules and regulations, Washington State Library.

Purpose: To meet the changes in expressed needs of the state as well as those changes expressed in the 1985 reauthorization of the Library Services and Construction Act. The State Library needs to change the basis on which it develops its practices and its activities.

Statutory Authority: Chapter 27.04 RCW.

Summary of Rules: To revise one subsection of the rules for construction grant programs. The unexpected occurrences of asbestos in library remodeling projects necessitates a change in definition of allowable costs for match.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy Zussy, State Librarian, Washington State Library, Mailstop AJ-11, Olympia, WA 98504-0111.

Proponents of the Rule: These proposed WAC changes were drafted by the Washington State Library staff with the concurrence of the Washington State Advisory Council on Libraries and the Washington State Library Commission.

**AMENDATORY SECTION** (Amending Order 86-02, filed 6/4/86)

WAC 304-12-290 CONSTRUCTION GRANT PROGRAM—RULES. The following final rules and regulations were adopted by the Washington state library commission in order to comply with the provisions of the Library Services and Construction Act of 1969 (formerly Public Law 88-269; Public Law 89-511 and now Public Law 91-600).

(1) Only projects to be owned by a state or local public agency are eligible for consideration.

(2) Requests for projects from any unit within a library district must be submitted with approval by the respective district library administration.

(3) Applicants will be required to give written evidence of official approval of any governmental unit involved in the project.

(4) Agreements to observe the legal requirements of the grants will be executed between the Washington state library commission and the officials administering approved projects.

(5) Applicants will be required to submit adequate evidence for evaluation of their request on the points established as criteria for evaluation by the Washington state library commission.

(6) Each application will be acknowledged and each applicant notified when the project will be considered by the state library commission.

(7) Each applicant will be notified concerning acceptance or rejection by the state library commission within ten days of such official action.

(8) Rejected applications will be accompanied by a statement as to why the project was not approved.

(9) Rejected applications may be resubmitted with evidence the objections have been met.

(10) Any applicant who feels their request has been unjustly rejected may request a hearing. Said hearing will be set to meet the convenience of both the Washington state library commission and the applicant insofar as is reasonably possible.

(11) The local share must be expended before grant funds will be paid, except for those projects covering two fiscal years, in which instance federal regulations will hold. Grant funds will be paid based upon a percentage of completion.

(12) Certification must be presented that local funds are on hand.

(13) Submission of a schedule of the planned progress of the project with estimated dates each step will be completed, is required.

(14) Upon receipt of formal approval by the state library commission, the project must be initiated within a six months' period.

(15) The building plans must meet the approval of the state library. Federal regulations, including but not limited to, evaluation of flood hazards, provision for the physically handicapped, environmental policies and procedures, and competitive bidding must be observed.

(16) When a plaque indicating completion date and source of funds is planned as part of the completed building or when a construction site sign is planned, acknowledgment shall be given to federal participation.

(17) The state library commission will establish a completion date, based upon the project architect's estimate of the time needed. A project is considered to be completed when it has been opened to the public for service.

(18) Expenses related to acquisition of an existing building or of land, architect's fees, ~~((and))~~ preliminary planning and capital improvements mandated by law or regulation may be considered an allowable previous expense and used as matching funds~~((if incurred no earlier than)). To be considered an allowable previous expense, the following criteria must be met:~~

(a) Expenses must be incurred within a three-year(s) period prior to the date of ((approval)) award of the ((project)) grant by the state library commission.

(b) Expenses must directly relate to the grant project.

(c) Type of funds used must meet allowable match criteria for Library Services and Construction Act projects.

(d) Expenditures must meet all federal regulations applicable to Library Services and Construction Act projects.

(19) Five percent of the federal share of the project will be withheld as the final payment. Final payment of the grant will be made upon completion of the project and when the state library commission has been satisfied that all conditions of the grant have been met, including the completion of a successful audit.

(20) When changes in federal regulations affect the above without sufficient time for formal notice and change, federal regulations will be considered as official.

(21) Projects are reviewed by the agency designated by the governor as federal coordinator.

(22) The advisory council will be kept fully informed as to pending projects, and progress of the approved project.

(23) Participants in federally-funded projects will cooperate with the advisory council during the period of evaluation.

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 January 6, 1988.

By Ralph Munro  
Secretary of State

Chapter 434-40 WAC  
ABSENTEE VOTING

WAC

- 434-40-005 Authority and purpose.
- 434-40-010 Definitions.
- 434-40-020 Applications for absentee ballots.
- 434-40-030 Application form for a regular absentee ballot.
- 434-40-040 Absentee ballot application forms originating outside the state of Washington.
- 434-40-050 Ongoing absentee ballot application.
- 434-40-060 Termination of ongoing absentee voter status.
- 434-40-070 Notice of termination as ongoing absentee voter.
- 434-40-080 Renewal of status as ongoing absentee voter.
- 434-40-090 Special absentee ballot application form.
- 434-40-100 Special absentee ballot—Material to be included.
- 434-40-110 Special absentee ballot—Time application received.
- 434-40-120 Hospital absentee ballot application form.
- 434-40-130 Incomplete application.
- 434-40-140 Signature discrepancies.
- 434-40-150 Verification of absentee ballot application.
- 434-40-160 Notification to voter of incomplete application.
- 434-40-170 Security of absentee ballot applications.
- 434-40-180 Service and overseas voters—Material and postage.
- 434-40-190 Absentee ballot envelopes.
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- 434-40-210 Canvassing board—Delegation of authority.
- 434-40-220 Canvassing board—Notice of open public meeting.
- 434-40-230 Processing of absentee ballots.
- 434-40-240 Verification of the signature and postmark on absentee ballots.
- 434-40-250 Absentee voter attempting to vote at the polls.
- 434-40-260 Absentee ballots returned after the poll lists have been marked.
- 434-40-270 Maintenance of an audit trail on absentee ballots.

WSR 88-03-019

ADOPTED RULES

SECRETARY OF STATE

[Order 88-1—Filed January 12, 1988]

I, Ralph Munro, Secretary of State, do promulgate and adopt at the Office of the Secretary of State, the annexed rules relating to the establishment of uniform procedures governing the requesting, processing, and canvassing of absentee ballots.

This action is taken pursuant to Notice No. WSR 87-24-047 filed with the code reviser on November 30, 1987. 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 29.36.150 which directs that the Secretary of State has authority to implement the provisions of chapter 346, Laws of 1987.

- 434-40-280 Challenge to the registration of absentee voters.
- 434-40-290 Security of absentee ballots.
- 434-40-300 Absentee ballot process to be expedited.
- 434-40-310 Absentee ballot—Credit for having voted.

### NEW SECTION

WAC 434-40-005 **AUTHORITY AND PURPOSE.** This chapter is adopted pursuant to RCW 29.36.150 and chapter 34.04 RCW in order to establish uniform procedures governing the requesting, processing, and canvassing of absentee ballots.

### NEW SECTION

WAC 434-40-010 **DEFINITIONS.** As used in this chapter:

(1) An "elector" of the state of Washington is any person who qualifies under state or federal law as an overseas voter, service voter, or out-of-state voter and who:

- (a) Is not currently a registered voter in Washington or any other state;
- (b) Will be at least eighteen years of age at the time of the next election;
- (c) Is a citizen of the United States;
- (d) Is a legal resident of the state, county, and precinct for at least thirty days preceding the election at which he or she offers to vote;
- (e) Is not currently being denied his or her civil rights by being convicted of a crime for which he or she could have been sentenced to the state penitentiary;

(2) "Out-of-state voters," "overseas voters," and "service voters" are electors of the state of Washington and are not registered voters of Washington or any other state; electors of the state of Washington who are spouses or dependents of service voters shall be considered to be either out-of-state voters or overseas voters;

(3) "Service voters" are electors of the state of Washington who are outside the state during the period available for voter registration and who are members of the armed forces while in active service, are students or members of the faculty at a United States military academy, are members of the merchant marine of the United States, or are members of a religious group or welfare agency officially attached to and serving with the armed forces of the United States.

(4) "Canvassing" is that process of examining, in detail, a ballot, groups of ballots, election subtotals, or grand totals in order to determine the final official returns of a primary, special, or general election and in order to safeguard the integrity of the election process;

(5) "Canvassing board" or "county canvassing board" is that body charged by law with the duty of canvassing absentee ballots, of ruling on the validity of questioned or challenged ballots, of verifying all unofficial returns as listed in the auditor's abstract of votes, and of producing the official county canvass report; it shall be composed of the county auditor, prosecuting attorney, and chairperson of the board of the county legislative authority, or

their representatives, designated pursuant to the provisions of WAC 434-40-210;

(6) "Territorial limits of the United States" means the fifty United States and the District of Columbia;

(7) "Blind voter" is a voter who has no vision or whose vision with corrective lenses is so defective as to prevent performance of ordinary activities for which eyesight is essential, or who has an eye condition of a progressive nature which may lead to blindness;

(8) "Voter requiring assistance" is any voter who has a sensory or physical handicap that results in his or her inability to vote at a polling place without assistance; such assistance shall be provided in the manner set forth by RCW 29.51.200;

(9) "Disabled voter" is any blind voter, voter requiring assistance, or any voter who has:

- (a) Lost both lower limbs;
- (b) Lost normal or full use of the lower limbs to sufficiently constitute severe disability;
- (c) No ability to move without crutches or a wheelchair;
- (d) Lost both hands;
- (e) A lung disease where forced expiratory respiratory volume when measured by spirometry is less than one liter per second;

(f) Cardiovascular disease classified as Class III or IV under American Heart Association standards;

(10) "Ongoing absentee ballot" is that absentee ballot provided to disabled voters and voters over the age of sixty-five, pursuant to the provisions of RCW 29.36.013;

(11) "Hospital absentee ballot" is that absentee ballot provided to voters confined to a hospital no earlier than five days before a primary or election, pursuant to the provisions of RCW 29.36.010;

(12) "Special absentee ballot" is that ballot provided to registered voters and electors in state primary and general elections who indicate on their application that they believe they will be residing or stationed or working outside the continental United States at the time of the election and that they will be unable to vote and return a regular absentee ballot during the time period provided by law;

(13) "Regular absentee ballot" is that absentee ballot provided to voters or electors who request an absentee ballot and who do not either request or qualify for an ongoing absentee ballot, hospital absentee ballot, or special absentee ballot;

(14) "Secure storage" are those locations provided for the storage of all material connected with the absentee ballot process, including ballots, and shall be under the direct control of the county auditor; it shall be locked during those periods of time when the auditor's office is closed, and when the office is open, access shall be permitted only to the county auditor and to those persons authorized in writing by the county canvassing board;

(15) "Challenged ballot" is that ballot issued to any voter whose registration has been challenged pursuant to the provisions of chapter 29.10 RCW and this chapter;

(16) "Questioned ballot" is that ballot issued to a voter by precinct election officers pursuant to WAC 434-40-250 or whenever any doubt exists as to the voter's qualifications to vote in an election and no challenge

has been made by either a registered voter or the precinct election officer.

(17) "County auditor" shall be as defined by RCW 29.01.043, and with respect to the processing of absentee ballots and applications, the term includes any employee of the county auditor who is directed in writing to perform those duties on behalf of the county auditor.

#### NEW SECTION

**WAC 434-40-020 APPLICATIONS FOR ABSENTEE BALLOTS.** Any application for an absentee ballot which is signed by a registered voter or elector, which identifies either the voter's registration address or the elector's last physical residence for voting purposes within the state, or where a registration address can be determined by use of the county voter registration records, and which contains an address to which the ballot is to be mailed if that address is different from the registration or residence address, shall be honored by the county auditor of the county in which the voter resides or the elector maintains his or her legal residence.

#### NEW SECTION

**WAC 434-40-030 APPLICATION FORM FOR A REGULAR ABSENTEE BALLOT.** Each county auditor shall provide an application form for a regular absentee ballot. The form shall be no smaller than five inches by eight inches and may be produced in any format deemed suitable to each county. The form shall include, but not be limited to, the following:

- (1) A space for the voter to print his or her name and address at which he or she is registered to vote;
- (2) A space for the out-of-state or service voter to indicate his or her last permanent residence within the state of Washington;
- (3) An address to which the ballot is to be mailed;
- (4) A space for the voter to indicate for which election(s) the application is made;
- (5) A space for the voter to sign his or her name and the date the application is made.

Only the address of the county auditor may appear on any regular absentee ballot application as the return address to which the application is to be mailed.

#### NEW SECTION

**WAC 434-40-040 ABSENTEE BALLOT APPLICATION FORMS ORIGINATING OUTSIDE THE STATE OF WASHINGTON.** The county auditor shall honor any application form for an absentee ballot originating outside the state of Washington, including those printed and distributed by the federal government, from any registered voter or elector of Washington, which contains the information required by WAC 434-40-030.

#### NEW SECTION

**WAC 434-40-050 ONGOING ABSENTEE BALLOT APPLICATION.** Each county auditor shall provide an application form for an ongoing absentee ballot. This form may be produced in any format deemed suitable to each county but must be produced in a manner

that is readable by vision-impaired and elderly voters. The form should be printed in over-sized type and may be in distinctive colors. The form shall include, as a minimum, the following information:

(1) A place to indicate that the voter is eligible for an ongoing absentee ballot because he or she is either disabled or over the age of sixty-five;

(2) A definition of disabled voter consistent with the definition appearing in WAC 434-40-010;

(3) Space to provide the voter's printed name, the address at which the voter is registered to vote, including city and zip code;

(4) A space for the voter to sign his or her name, provide a telephone number, and, if the voter is claiming status because of age, the date of birth;

(5) A summary of the reasons for termination of status as an ongoing absentee voter;

Signatures on applications for ongoing absent ballots shall be verified in the same manner as signatures on applications for regular absentee ballots. Ongoing absentee ballots shall be mailed to the address specified by the applicant on the application form.

#### NEW SECTION

**WAC 434-40-060 TERMINATION OF ONGOING ABSENTEE VOTER STATUS.** Status as an ongoing absentee voter shall be terminated upon the occurrence of any of the following:

- (1) The cancellation of the voter's registration record;
- (2) The written request of the voter;
- (3) The death or disqualification of the voter;
- (4) The return of an ongoing absentee ballot as undeliverable;
- (5) January 1st of each odd-numbered year, provided at least one general election has been held since the voter acquired status as an ongoing absentee voter;

All persons terminated from the status of ongoing absentee voter who do not automatically renew their status pursuant to the provisions of WAC 434-40-080 shall have their original application form retained by the auditor for a period of one year after the date of termination.

#### NEW SECTION

**WAC 434-40-070 NOTICE OF TERMINATION AS ONGOING ABSENTEE VOTER.** Whenever any voter's status as an ongoing absentee voter is terminated due to the provisions of WAC 434-40-060(5), the county auditor shall notify that voter, by mail, of the termination of his or her status as an ongoing absentee voter and the reason for that termination. This notice shall be mailed to affected voters as soon as practical following January 1st of each odd-numbered year.

#### NEW SECTION

**WAC 434-40-080 RENEWAL OF STATUS AS ONGOING ABSENTEE VOTER.** Included with the notice of termination as required by WAC 434-40-070

shall be a postage prepaid return form enabling the terminated ongoing absentee voter to renew his or her status as an ongoing absentee voter. Upon receipt and verification of the signature on the renewal form, the voter shall be considered as being restored to status as an ongoing absentee voter.

#### NEW SECTION

WAC 434-40-090 SPECIAL ABSENTEE BALLOT APPLICATION FORM. Each county shall provide an application form for a special absentee ballot. This form may be produced in any format deemed appropriate by the county auditor and shall include, but not be limited to, space for the following:

(1) The applicant's printed name and the address at which he or she is registered to vote or, if an elector, the last physical residence for voting purposes in Washington;

(2) The address to which the special ballot is to be mailed;

(3) An indication of the election for which the ballot is requested;

(4) The voter's signature;

(5) A box for the voter to check indicating that they want a regular absentee ballot forwarded to them as soon as it is available;

The application shall also state that the applicant believes that he or she will be residing or stationed outside the continental United States and that he or she believes that they will be unable to vote and return a regular absentee ballot by mail during the period provided by law for the return of regular absentee ballots. The county auditor shall honor any application for a special absentee ballot that is in substantial compliance with the provisions of this section.

#### NEW SECTION

WAC 434-40-100 SPECIAL ABSENTEE BALLOT—MATERIAL TO BE INCLUDED. In addition to the material required by WAC 434-40-190, each county auditor shall include with any special absentee ballot mailed the following information:

(1) Instructions for voting the ballot;

(2) Instructions for correcting a spoiled ballot;

(3) The fact that political party designation should be included with all write-ins for partisan office;

(4) A listing of all offices and measures that will appear upon the ballot, together with a listing of all persons who have filed for office or who have indicated their intention to file for office;

(5) The fact that the voter may vote for as many, or as few offices or measures as he or she desires;

(6) The fact that the voter is entitled to request, and subsequently vote a regular absentee ballot, and that if the regular absentee is received during the time period provided by law for the canvassing of absentee ballots it will be tabulated and the special absentee ballot will be voided.

#### NEW SECTION

WAC 434-40-110 SPECIAL ABSENTEE BALLOT—TIME APPLICATION RECEIVED. No special absentee ballot may be provided earlier than ninety days prior to a primary or election. Any application received by a county auditor more than ninety days prior to a primary or general election may be either returned to the applicant with the explanation that the request is premature or may be held by the auditor until the appropriate time and then processed.

#### NEW SECTION

WAC 434-40-120 HOSPITAL ABSENTEE BALLOT APPLICATION FORM. Each county shall provide an application form for hospital absentee ballots. This form may be produced in any format deemed appropriate by the county auditor and shall include, but not be limited to, space for the following:

(1) A statement by the voter that he or she was admitted to the hospital no earlier than five days prior to a primary or general election;

(2) A statement by the voter that he or she will be confined to the hospital on the day of the primary or election;

(3) A place for the voter to print his or her name and address;

(4) A place for the voter to sign the application;

(5) A place for the hospital administrator or his or her designee to verify the voter's date of admission and status as a patient;

Voters qualifying for hospital absentee ballots may apply by messenger on the day of the primary or election for that ballot.

#### NEW SECTION

WAC 434-40-130 INCOMPLETE APPLICATION. (1) If an application for an absentee ballot from a registered voter or an elector does not contain the signature of the applicant, the auditor shall attempt to contact the applicant by whatever means deemed appropriate, including written notification pursuant to WAC 434-40-160, in order to obtain the signature.

(2) If an application for an absentee ballot from an elector is received by the county auditor and it does not contain sufficient information to enable the auditor to issue the correct absentee ballot, the auditor shall, if in his or her judgment enough time exists to make such action practical, request that the elector provide the additional information in order to enable the auditor to mail the correct absentee ballot. If, in the judgment of the auditor, insufficient time exists to permit this action, the auditor may issue the absentee ballot that would be issued if the applicant had listed the courthouse as his or her legal residence. Upon its return, the ballot shall be referred to the county canvassing board, and only that part of the ballot containing candidates and measures common to the entire county, and any other offices or issues on which it can be conclusively determined the voter is qualified to cast a ballot, shall be tabulated.

NEW SECTION

WAC 434-40-140 SIGNATURE DISCREPANCIES. In comparing the signature as it appears on the application for an absentee ballot with the signature, or a facsimile of that signature, as it appears on the permanent voter registration record, the auditor shall honor the application if, in his or her judgment, the same person signed both. In making this determination, the auditor may take into account the age of the signature or any other circumstances which might account for differences between the two signatures.

NEW SECTION

WAC 434-40-150 VERIFICATION OF ABSENTEE BALLOT APPLICATION. Upon receipt of a request for an absentee ballot made by a registered voter or an elector, the county auditor shall determine if the applicant is a registered voter within the county. If it is determined that the applicant is registered to vote, a notation shall be made that the voter has requested an absentee ballot and the appropriate ballot shall be mailed as soon as it is available. If it is determined that the application is from an elector, the county auditor shall mail the appropriate absentee ballot when available, together with any state or local voter's pamphlet produced for that election.

NEW SECTION

WAC 434-40-160 NOTIFICATION TO VOTER OF INCOMPLETE APPLICATION. In addition to notification provisions required by WAC 434-40-130, the county auditor shall notify any person submitting an absentee ballot application which is not accepted of the reason why the application is not accepted. The notification provided shall be in substantially the following form:

NOTICE TO ABSENTEE BALLOT APPLICANT

Your application for an absentee ballot has been received in our office but we are unable to process it or issue you an absentee ballot for the following reason(s):

- ( ) LACK OF SIGNATURE - We must have your signature on the request before we can honor it. Please sign the enclosed application as you are registered to vote and return it to this office;
- ( ) NOT REGISTERED - We are unable to find a voter registration record for you in our files. Please contact our office to resolve this matter as soon as possible;
- ( ) REQUEST RECEIVED TOO LATE - Your request for an absentee ballot was received after the last day prescribed by law for the issuance of absentee ballots;
- ( ) OTHER - \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NEW SECTION

WAC 434-40-170 SECURITY OF ABSENTEE BALLOT APPLICATIONS. All completed applications for absentee ballots shall be kept in secure storage from the date of receipt and shall be held until such time as they may be destroyed pursuant to state law. This period shall be twenty-two months for all federal elections and sixty days for all other elections, unless litigation requires that they be maintained for a longer period. It is the intent of this section that adequate security be maintained on absentee ballot applications at all times and that an audit trail be provided on all actions undertaken with respect to the applications.

NEW SECTION

WAC 434-40-180 SERVICE AND OVERSEAS VOTERS—MATERIAL AND POSTAGE. The secretary of state shall furnish all envelopes and instructions for service voters, overseas voters, and those out-of-state voters who are spouses or dependents of service voters. All absentee ballots to voters in these categories will be sent postage-free, pursuant to the provisions of federal law, and the return envelopes will be so marked as to indicate that they may be returned free of postage.

NEW SECTION

WAC 434-40-190 ABSENTEE BALLOT ENVELOPES. Included with any absentee ballot provided to a voter shall be instructions for correctly voting the absentee ballot, a security envelope which shall bear no markings identifying the voter, and a return envelope which shall bear the return address of the issuing officer and shall have a space for the voter to sign his or her name. The return envelope shall also have a statement in substantially the following form:

AFFIDAVIT OF ABSENTEE BALLOT APPLICANT

I \_\_\_\_\_ do solemnly swear under penalty of law as set forth below, that I am a legal resident of Washington and I further certify that I am legally qualified to vote at the election for which this ballot was requested, that I have not voted another ballot, and that I herein enclose my ballot for that election.

Date Ballot Voted	Signature of Voter
PENALTY PROVISION: Any person who violates any of the provisions of this chapter, relating to swearing and voting, shall be guilty of a felony and shall be punished by imprisonment for not more than five years or a fine of not more than five thousand dollars, or by both such fine and imprisonment (RCW 29.36.160).	
.....	
All absentee ballot envelopes and return envelopes shall conform to existing postal department regulations regarding size.	
County auditors shall be permitted to use any existing stock of absentee ballot return envelopes, in the form specified by state law, prior to the 1987 amendment to	

RCW 29.36.030. Upon exhaustion of that stock or not later than January 1, 1989, county auditors shall comply with the provisions of this regulation when ordering absentee ballot return envelopes.

#### NEW SECTION

WAC 434-40-200 ABSENTEE BALLOT—INSTRUCTIONS TO VOTERS. Included with each absentee ballot provided to applicants shall be instructions for properly voting the ballot and for returning it in a manner that will guarantee the voter secrecy of his or her ballot. The instructions shall include the following:

- (1) Detailed instructions for correctly marking the ballot;
- (2) Detailed instructions on how the voter may correct a spoiled ballot;
- (3) Instructions on how the voter is to complete and sign the affidavit on the return envelope;
- (4) Instructions on how the voter is to place his or her ballot in the security envelope and place the security envelope in the return envelope;
- (5) Instructions regarding postage, if required;
- (6) Notice to the voter that the ballot will be counted if it is postmarked not later than election day and if it is received by the county auditor not later than the tenth day following any special election or primary, or the fifteenth day following a general election.

#### NEW SECTION

WAC 434-40-210 CANVASSING BOARD—DELEGATION OF AUTHORITY. The county auditor, prosecuting attorney, and chairperson of the county legislative authority shall be responsible for the performance of all duties of the county canvassing board, as set forth in chapters 29.36 and 29.62 RCW, and the regulations on canvassing adopted by the secretary of state. These duties shall be performed by the members of the board, or they may designate in writing, either independently or in unison, representatives to perform those duties. This written designation of authority shall be filed with the county auditor prior to any designee undertaking any action on behalf of the board. In no instance may the members of the county canvassing board delegate the responsibility of certifying the returns of any primary or election, of determining the validity of any challenged ballots, or of determining the validity of any questioned ballots referred to them by the county auditor, to anyone other than a person authorized by law to act on their behalf.

#### NEW SECTION

WAC 434-40-220 CANVASSING BOARD—NOTICE OF OPEN PUBLIC MEETING. All activities of the canvassing board shall be open to the public, although they may limit the number of persons observing any aspect of the process whenever, in their judgment, it is necessary to do so to preserve order and to safeguard the integrity of the process. The canvassing board may adopt and promulgate rules and regulations, not inconsistent with the provisions of this section, to ensure that the process is open to the public but that the

procedures themselves are performed by the board free of any outside interference. The auditor shall publish notice of the meeting of the canvassing board, as required by chapter 42.30 RCW. Such notice shall be in substantially the following form:

#### OPEN PUBLIC MEETING NOTICE

The Canvassing Board of (Name of County) County, pursuant to RCW 29.62.020, will hold a public meeting at (Time), (Day), (Date), 19   , at (Location), to (Purpose of the Meeting). This meeting of the Canvassing Board is an open, public meeting under the applicable provisions of chapter 42.30 RCW, and shall be continued until the activity for which the meeting is held has been completed. A record of the proceedings of the county canvassing board shall be made and maintained in the county auditor's office, and shall be available for public inspection and copying. The record shall be retained for the same time period required by law for the retention of absentee ballots. A separate notice shall be published whenever the canvassing board meets to determine the status of questioned ballots, challenged ballots, or to certify the results of the election.

#### NEW SECTION

WAC 434-40-230 PROCESSING OF ABSENTEE BALLOTS. All absentee ballot return envelopes may be opened and subsequently processed no earlier than the tenth day prior to any primary or election. In counties tabulating absentee ballots by hand, the inner security envelope may not be opened until after 8:00 p.m. on election day. In counties tabulating absentee ballots on an electronic vote tallying system, the ballots may be removed from the inner envelope not earlier than the tenth day prior to a primary or election and the ballots then prepared for processing. All absentee ballots, whether removed from the inner security envelope or not, must be kept in sealed or locked containers and in secure storage until they are ready to be tabulated.

#### NEW SECTION

WAC 434-40-240 VERIFICATION OF THE SIGNATURE AND POSTMARK ON ABSENTEE BALLOTS. The county canvassing board shall examine the signature on the return envelope of all absentee ballots to ensure that the applicant is qualified to cast the ballot. The provisions of WAC 434-40-140 shall be applicable in determining the validity of the signature as it appears on the return envelope. For service voters, overseas voters, and out-of-state voters the date of mailing shall be the date indicated by the voter on the return envelope, and any envelope which shows a date subsequent to the date of the primary or general election shall be referred to the county canvassing board for disposition. For all other absentee ballots, the date of mailing shall be the postmark, if present and legible. If the postmark is not present or legible, the date of mailing shall be considered the date indicated by the voter on the return envelope. All absentee ballots showing a postmark subsequent to the date of the primary or election, or a

date indicated by the voter subsequent to the date of the primary or election if the postmark is missing or illegible, shall be referred to the county canvassing board for their disposition.

NEW SECTION

WAC 434-40-250 ABSENTEE VOTER ATTEMPTING TO VOTE AT THE POLLS. In addition to maintaining a record of all persons requesting and being issued an absentee ballot, each county auditor will, to the extent time allows, make a notation on each poll list of the persons who have been issued an absentee ballot. Whenever any voter whose name has been so marked attempts to vote at the polling place, the precinct election officers shall issue that voter a questioned ballot. The questioned ballot shall be placed in an envelope, on the outside of which the words "QUESTIONED BALLOT" shall be printed. The envelope should then be sealed and care shall be taken to ensure that no marks appear on the outside of that envelope which might identify that voter. This envelope should then be placed in a larger envelope, on the outside of which shall be printed the words "QUESTIONED BALLOT." There shall also be space on this outer envelope for the precinct election officers to indicate the name and number of the precinct, the printed name, address, and telephone number of the questioned voter, and the reason why the ballot is being questioned. The ballot should then be referred to the canvassing board for their disposition.

This regulation and WAC 434-40-260 shall not apply to any county that does not tabulate absentee ballots until the poll books have been examined to ensure that no voter has voted twice.

NEW SECTION

WAC 434-40-260 ABSENTEE BALLOTS RETURNED AFTER THE POLL LISTS HAVE BEEN MARKED. Absentee ballots which are issued and returned to the county auditor after the poll lists have been marked to indicate those persons who have been issued an absentee ballot shall be segregated from other absentee ballots, and shall not be tabulated until the poll lists have been examined following the election to ensure that those persons did not vote at the polls on election day. In the event the county auditor determines that an individual voted at the polls and returned an absentee ballot, the absentee ballot shall not be counted and a copy of the poll list and the returned absentee shall be forwarded to the prosecuting attorney for his consideration. Any county manually tabulating absentee ballots that is unable to comply with the provisions of this regulation shall, not later than January 1, 1989, adopt an automated absentee ballot system that will permit compliance with this regulation.

NEW SECTION

WAC 434-40-270 MAINTENANCE OF AN AUDIT TRAIL ON ABSENTEE BALLOTS. Each county auditor shall maintain an audit trail with respect to the processing of absentee ballots which shall include, but not be limited to, the following:

(1) A record of when each absentee ballot application was received, the date the ballot was mailed or issued, and the date the absentee ballot was received;

(2) The number of absentee ballots issued and returned, by legislative and congressional district, for each primary and general election;

(3) A record of the disposition of each request for an absentee ballot not honored;

(4) A record of the disposition of each returned absentee ballot not counted;

(5) A record of the time and place of each time the county canvassing board met to process absentee ballots;

(6) A documentation of the security procedures undertaken to protect the integrity of the ballots after receipt, including the seal numbers used to secure the ballots during all facets of the absentee ballot process.

NEW SECTION

WAC 434-40-280 CHALLENGE TO THE REGISTRATION OF ABSENTEE VOTERS. The voter registration of any person requesting an absentee ballot may be challenged under the provisions of chapter 29.10 RCW by any registered voter who completes and files with the county auditor a form substantially similar to the following:

VOTER'S REGISTRATION CHALLENGE FORM

TO PROPERLY EXECUTE THIS FORM IT IS NECESSARY TO CHECK THE APPROPRIATE SQUARE BELOW. A SUMMARY OF THE ADMINISTRATIVE PROCEDURES WHICH WILL BE FOLLOWED WITH RESPECT TO THIS VOTER REGISTRATION CHALLENGE MAY BE FOUND ON THE REVERSE SIDE OF THIS FORM.

REASON FOR CHALLENGE

- The individual challenged is not a U.S. Citizen
- The individual challenged is not at least 18 years old
- The individual challenged is currently being denied his or her civil rights
- The individual challenged does not reside at the address at which he or she is registered and his or her actual residence is as follows:

\_\_\_\_\_  
\_\_\_\_\_

NOTE: State law (RCW 29.10.130) requires that challenging party must provide the address at which the challenged party resides in order for a challenge based on residence to be considered.

PROVISIONS RELATING TO VOTING RESIDENCE

The State Constitution and state law provide that a voting residence shall not be lost if the voter is absent because of:

- A. State or Federal employment, including military service
- B. School attendance

- C. Business outside the state
- D. Confinement in prison

NOTE: Persons in the above categories have the legal right to continue to use their former residence for voting purposes and may continue to vote unless additional conditions or circumstances indicate they have forfeited that right in Washington. Any person instituting a voter registration challenge should be sure of the facts BEFORE signing the challenge affidavit.

**AFFIDAVIT OF CHALLENGER**

I, \_\_\_\_\_, declare, under penalty of perjury, that I am a registered voter, that I hereby challenge the voter's registration of \_\_\_\_\_ for the reason indicated above. I also state that I have read the above stated PROVISIONS RELATING TO VOTING RESIDENCE and that, to the best of my knowledge and belief, the above named individual does not fall into any of the protected categories.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF CHALLENGER

**VOTER'S REGISTRATION CHALLENGES**

**A SUMMARY OF ADMINISTRATIVE PROCEDURES**

**CHALLENGES FILED THIRTY OR MORE DAYS PRIOR TO A PRIMARY, SPECIAL OR GENERAL ELECTION**

State law (RCW 29.10.140) requires the county auditor to notify, by certified mail, any voter whose registration has been challenged.

The notification must be mailed to the address at which the challenged voter is registered, to any address provided by the challenger as required by RCW 29.10.130, and to any other address that the auditor could reasonably expect the challenged voter might receive such notification.

Included with the notification must be a request that the voter appear at a hearing to be held within ten days of the mailing of the request, at the place and time specified, in order to assist the auditor in determining the validity of the challenge.

THE PERSON MAKING THE CHALLENGE MUST BE PROVIDED WITH A COPY OF THE NOTIFICATION AND REQUEST MAILED TO THE CHALLENGED VOTER.

If either the challenger or the challenged voter, or both, are unable to appear in person they may file affidavits, stating UNDER OATH the reasons they believe the challenge to be valid or invalid.

The county auditor shall determine the validity of the challenge based on his or her evaluation of the evidence presented by both parties to the challenge. The decision of the auditor is final, subject only to a petition for judicial review under Chapter 34.04 RCW.

**CHALLENGES FILED WITHIN THIRTY DAYS OF A PRIMARY, SPECIAL OR GENERAL ELECTION**

State law (RCW 29.10.130) provides that in the event the challenge is made within thirty days of an election, the voter and the precinct election officers within the voter's precinct are to be notified.

Both the challenged voter and the precinct election officers are also to be informed that in the event the voter attempts to vote at the ensuing election, he or she will be provided with a CHALLENGED BALLOT.

The validity of the challenge and the disposition of the challenged ballot will be determined by the county canvassing board and both the challenger and the challenged voter may either appear in person or submit affidavits in support of their respective positions.

In the event the challenged voter does NOT vote at the ensuing election, the challenge shall be processed in the same manner as challenges made more than thirty days prior to the election.

In the event the challenge is filed more than thirty days prior to a primary or election, the challenge shall be processed in the manner provided by RCW 29.10.140. If the voter votes and returns his or her absentee ballot prior to the county auditor making his or her determination as to the validity of the challenge, the returned ballot shall be segregated from other absentee ballots and not processed until such a determination is made. In the event the challenge is made within thirty days of a primary or election and prior to the absentee ballots being separated from the return envelopes, the challenge and the returned ballot shall be forwarded to the canvassing board and processed in the manner provided by RCW 29.10.127. If the challenge is made within thirty days of a primary or election but after the ballots have been separated from the return envelopes, the challenge shall be processed by the county auditor in the manner provided by law for challenges made more than thirty days prior to the primary or election.

**NEW SECTION**

**WAC 434-40-290 SECURITY OF ABSENTEE BALLOTS.** Following the tabulation of absentee ballots, they shall be kept in sealed or locked containers and in secure storage until the expiration of any time deadlines for a legal challenge to the results of the primary or election, and then should be retained by the county as long as required by state or federal law.

**NEW SECTION**

**WAC 434-40-300 ABSENTEE BALLOT PROCESS TO BE EXPEDITED.** All election officials charged with any duties or responsibilities with respect to absentee ballots shall ensure that those duties are performed in an expeditious manner, in order to maximize the opportunity for persons requesting absentee ballots to receive, vote, and return them in time to be counted.

NEW SECTION

WAC 434-40-310 ABSENTEE BALLOT—CREDIT FOR HAVING VOTED. Each county auditor shall credit any person requesting an absentee ballot with having voted. This credit shall be given solely for the purpose of maintaining the voter as an active voter, and in no instance should such voters be included with the total number of votes cast at a primary or election, or in any way be a part of the votes cast total for the purposes of validating a special election.

**WSR 88-03-020**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 2570—Filed January 12, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to respite care services, amending chapter 388-15 WAC.

This action is taken pursuant to Notice No. WSR 87-22-083 filed with the code reviser on November 4, 1987. 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 74.08.44 [74.08.044] 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 December 9, 1987.

By Leslie F. James, Director  
 Administrative Services

Chapter 388-15 WAC  
**RESPITE CARE SERVICES**

NEW SECTION

WAC 388-15-690 DEFINITIONS. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section.

- (1) "Adult" means a person 18 years of age or older.
- (2) "Caregiver" means a spouse, relative, or friend who has primary responsibility for the care of a functionally disabled adult, who does not receive financial compensation for the care, and who is assessed as being at risk of placing the eligible participant in a long-term care facility if respite care is not available.
- (3) "Continuous care" means assistance provided on a daily basis.

(4) "Dementing illness" means an illness characterized by the progressive loss of cognitive ability and increasing dependency on others for performance of the activities of daily living.

(5) "Department" means the department of social and health services.

(6) "Eligible participant" means an adult who:

- (a) Needs substantially continuous care or supervision by reason of the person's functional disability; and
- (b) Is assessed as requiring institutionalization in the absence of a caregiver assisted by home and community support services, including respite care.

(7) "Functionally disabled" includes requiring assistance in completing activities of daily living and community living skills. It also includes individuals with dementing illnesses or neurological disorders, including traumatic brain injury (TBI).

(8) "Institutionalization" means placement in a long-term care facility.

(9) "Respite care services" means relief care for families or other caregivers of disabled adults, eligibility for which shall be determined by the department by rule. The services provide temporary care or supervision of disabled adults in substitution for the caregiver. The term includes social day care.

(10) "Service provider" means an individual, agency, or organization under contract to the area agency on aging (AAA) or its subcontractor.

(11) "Sliding fee schedule" means a fee schedule developed by the department using the state median income, adjusted for family size, and used to determine share of the cost of respite care services. The amount of the cost of respite care services shared by the eligible participant is a percentage of the total cost of the service as determined by the schedule, graduated to full recovery of the cost of the service provided.

(12) "Social day care" means nonmedical services to persons who live with their families, cannot be left unsupervised, and are at risk of being placed in a 24-hour care facility if their families do not receive some relief from constant care.

(13) "State median income" means that income amount established by the department of health and human services and adjusted to a calendar year basis where one-half of the state's population for a family of four has income above that amount and one-half of the state's population for a family of four has income below that amount.

(14) "Traumatic brain injury (TBI)" means an insult to the brain, not of a congenital nature or related to degenerative or aging processes. It may result from direct or indirect trauma, infection, anoxia, or vascular lesions. It may produce a diminished or altered state of consciousness, which results in impairment of cognitive abilities or physical functioning. It can also result in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functional disability or psychosocial maladjustment.

NEW SECTION

WAC 388-15-695 CAREGIVER ELIGIBILITY. To be eligible to receive respite care services, the caregiver shall:

- (1) Have primary responsibility for the care of a functionally disabled adult, including individuals with

dementing illnesses, neurological disorders, or traumatic brain injury (TBI); and

(2) Not receive financial compensation for the care; and

(3) Be assessed as being at risk of placing the eligible participant in a long-term care facility if assistance by home and community support services, including respite care, is not available.

**NEW SECTION**

**WAC 388-15-700 DISTRIBUTION OF COST.**

(1) The department shall provide for participation by the eligible participant in the cost of respite care services.

(2) The department shall administer a sliding fee schedule, which shall be updated annually, to determine the eligible participant's share of the cost of respite care services.

(3) The department shall determine the eligible participant's income as follows:

(a) If the caregiver and eligible participant are married, all monthly income received in either or both names shall be combined and one-half of the total shall be considered the participant's income.

(b) If the caregiver is a friend or relative other than the spouse, only the monthly income received by the eligible participant in the participant's name shall be considered the participant's income.

(4) In determining the amount the eligible participant shall pay, the following shall apply:

(a) The department shall not charge the participant if the participant's income is at or below 40 percent of the state median income.

(b) The department shall charge a percentage of the cost of respite care calculated from the sliding fee schedule to participants whose income is between 40 percent and 99 percent of the state median income.

(c) The department shall charge the full cost of respite care services if the participant's income is 100 percent or more of the state median income, as calculated from the sliding fee schedule.

(d) The department shall determine the full cost of respite care by the number of hours or days of service used and the rate of the service, as negotiated between the area agency on aging and the respite care service provider.

**NEW SECTION**

**WAC 388-15-705 RATES OF PAYMENT.**

(1) The department shall not pay respite care service providers more than the rate paid to other service providers for the same level of care.

(2) The department shall pay Medicaid certified nursing homes providing respite care services the Medicaid rate approved for that facility. The rate paid to non-Medicaid certified nursing homes providing respite care services may not exceed the average Medicaid rate in that county. The eligible participant shall pay all charges for services not included in the Medicaid rate.

**NEW SECTION**

**WAC 388-15-710 SERVICE PRIORITIES.** (1) To ensure that respite care is made generally available, the department shall establish priorities for service. Requests for respite care which are of an emergent nature shall have first priority. A request for respite care shall be considered an emergency if the caregiver becomes ill or injured to the extent that the caregiver's ability to care for the disabled adult is impaired.

(2) In nonemergency situations, respite care shall be available on a first-come, first-served basis: PROVIDED, That sufficient resources are available to fill the requests each month. If respite care cannot be provided when requested, a waiting list shall be used. If a cancellation occurs, respite care shall be made available to those on the waiting list according to the service priority categories shown in WAC 388-15-715.

**NEW SECTION**

**WAC 388-15-715 SERVICE PRIORITY CATEGORIES.**

(1) The following service priority categories shall be used when decisions must be made about who can receive services.

Caregiver Situation	How Does Each Statement Correspond to Caregiver's Situation	
	YES	NO
A. Caregiver has documented chronic health problems.	_____	_____
B. Caregiver provides substantial time and attention to other family members.	_____	_____
C. Caregiver has provided care without prior use of a support system.	_____	_____

**PRIORITY CATEGORIES**

- Priority 1: "Yes" to A, B, & C
- Priority 2: "Yes" to A & B; "No" to C
- Priority 3: "Yes" to A & C; "No" to B
- Priority 4: "Yes" to A; "No" to B & C
- Priority 5: "Yes" to B & C; "No" to A
- Priority 6: "Yes" to B; "No" to A & C
- Priority 7: "Yes" to C; "No" to A & B
- Priority 8: "No" to A, B, & C

(2) Prior use of a support system refers to a caregiver using another type of respite care program, other community-based programs, or receiving assistance from church, family, and friends during the period of time the caregiver is providing continuous care to the functionally disabled adult. A caregiver who meets conditions A, B, and C, under WAC 388-15-715, ranks as a Priority 1. A caregiver who meets conditions B and C only, under WAC 388-15-715, ranks as a priority 5. A caregiver with priority 1 has higher priority to receive respite care services than a caregiver with priority 5. For example:

(a) PRIORITY 1

- (i) A. – Has high blood pressure;
  - (ii) B. – Is caring for an infant; and
  - (iii) C. – Has not used some other assistance program during the period of caring for the disabled adult.
- (b) PRIORITY 5
- (i) B. – Does spend time caring for other family members; and
  - (ii) C. – Has not used another support system during the period of caring for the disabled adult.

**WSR 88-03-021**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed January 12, 1988]

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 ch. 388-86 WAC Medical care—Services provided.  
 Amd ch. 388-87 WAC Medical care—Payment;

that the agency will at 10:00 a.m., Thursday, February 25, 1988, in the Auditorium, OB-2, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on February 26, 1988.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 25, 1988.

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

Leslie F. James, Director  
 Administrative Services  
 Department of Social and Health Services  
 Mailstop OB 39  
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by February 11, 1988. The meeting site is in a location which is barrier free.

Dated: January 11, 1988  
 By: Leslie F. James, Director  
 Administrative Services

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-86-005, 388-86-085, 388-87-010, 388-87-027 and 388-87-035; and new WAC 388-86-086 and 388-87-036.

**Purpose:** To change the method by which transportation to covered medical services is assured by the department.

**Reason:** To control expenditures for transportation to covered medical services by using the most cost effective methods of either "fee for services" payments or by contracting.

**Statutory Authority:** RCW 74.08.090.

**Summary:** The department shall assure the availability of necessary transportation to and from covered medical care. This assurance shall be either as an administrative service or as a medical service. As an administrative service the payment for the service shall be according to contracts between the department and contractors. As a medical service the payment for the services shall be on a fee for service basis to providers of the service.

**Person Responsible for Drafting, Implementation and Enforcement of the Rule:** Jim Sparks, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-7316.

Rules are proposed by DSHS.

These rules not necessary as a result of a new state or federal law.

No economic impact statement is required under the Regulatory Fairness Act.

**AMENDATORY SECTION** (Amending Order 2580, filed 12/31/87)

WAC 388-86-005 SERVICES AVAILABLE TO RECIPIENTS OF CATEGORICAL NEEDY MEDICAL ASSISTANCE. (1) The department shall provide the following Title XIX mandatory services:

- (a) Early and periodic screening diagnosis and treatment services to eligible individuals under twenty-one years of age;
- (b) Family planning services;
- (c) Home health agency services;
- (d) Inpatient and outpatient hospital care;
- (e) Other laboratory and x-ray services;
- (f) Skilled nursing home care;
- (g) Certified registered nurse practitioner services;
- (h) Physicians' services in the office or away from the office as needed for necessary and essential medical care(~~and~~ ~~(i) Patient transportation services~~).

(2) The department shall provide the following Title XIX optional services:

- (a) Anesthetization services;
- (b) Blood;
- (c) Chiropractic services;
- (d) Drugs and pharmaceutical supplies;
- (e) Eyeglasses and examination;
- (f) Hearing aids and examinations;
- (g) Nurse midwife services;
- (h) Oxygen;
- (i) Physical therapy services;
- (j) Private duty nursing services;
- (k) Rural health clinic services;
- (l) Surgical appliances;
- (m) Prosthetic devices and certain other aids to mobility;
- (n) Dental services.

(3) Organ transplants shall be limited to the heart, kidney, liver, and bone marrow.

(4) Treatment, dialysis, equipment and supplies for acute and chronic nonfunctioning kidneys shall be provided in the home, hospital and kidney center. See WAC 388-86-050(5).

(5) Treatment to detoxify narcotic addiction cases in a hospital or on an outpatient basis shall not be provided as a part of the medical assistance program. The department shall provide treatment for concurrent diseases and complications.

(6) Detoxification of an acute alcoholic condition shall be provided only in a certified detoxification center or in a general hospital with certified detoxification facilities.

- (7) The department shall approve requested services:
- That are listed in this section; and
  - Where evidence is obtainable to establish medical necessity, as defined in WAC 388-80-005, if the recipient or provider submits sufficient objective clinical information (including, but not limited to, a physiological description of the disease, injury, impairment or other ailment; pertinent laboratory findings; x-ray reports; and patient profiles).
- (8) A request for medical services shall be denied by the department if the requested service:
- Is not medically necessary as defined in WAC 388-80-005; or
  - Is generally regarded by the medical profession as experimental in nature or as unacceptable treatment, unless the recipient can demonstrate through sufficient objective clinical evidence the existence of particular circumstances which render the requested service medically necessary.
- (9) The department shall:
- Approve or deny all requests for medical services within fifteen days of the receipt of the request; or
  - If additional justifying information is necessary before a decision can be made, the request shall be neither approved nor denied but shall be returned to the provider within five working days of the original receipt. If additional justifying information:
    - Is not returned within thirty days of the date it was returned to the provider, then the original request shall be approved or denied.
    - Is returned to the department, the request shall be acted upon within five working days of the receipt of the additional justifying information.
- (10) Whenever the department denies a request for medical services the department shall, within five working days of the decision, give written notice of the denial to the recipient and the provider. The notice shall state:
- The specific reasons for the department's conclusion to deny the requested service.
  - The recipient has a right to a fair hearing if the request is made within ninety days of receipt of the denial, with the instruction on how to request the hearing.
  - The recipient may be represented at the hearing by legal counsel or other representative.
  - That upon request, the CSO shall furnish the recipient the name and address of the nearest legal services office.
  - If a fair hearing is requested, a medical assessment other than that of the person or persons involved in making the original decision may be obtained at the expense of the department.
- (11) For services available under:
- The limited casualty program—medically needy (see chapter 388-99 WAC); and
  - The limited casualty program—medically indigent (see chapter 388-100 WAC.)
- (12) The department may require a second opinion and/or consultation prior to the approval of any elective surgical procedure.
- (13) The department shall designate those surgical procedures which:
- Can be performed in other than a hospital in-patient setting; and
  - Require prior approval by the area medical unit for a hospital admission.
- (14) The department shall assure the availability of necessary transportation to and from covered title XIX medical services.
- 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.
- AMENDATORY SECTION (Amending Order 2321, filed 12/27/85)**
- WAC 388-86-085 ~~((PATIENT))~~ **TRANSPORTATION (OTHER THAN AMBULANCE).** (1) The department ~~((with))~~ shall assure the availability of necessary transportation for recipients to and from medical care services covered under the medical assistance program ~~((in accordance with the following guidelines:~~
- ~~"Patient transportation" shall be provided only when other sources of transportation are not available.~~
  - ~~Transportation shall be provided for the least expensive available means suitable to the recipient's medical need.~~
  - ~~Transportation shall be provided only to medical care within the local community unless necessary medical care is not available locally.~~

- ~~((d) All nonemergent medical transportation requires prior approval)).~~
- ~~(2) ((Ambulance transportation may be provided when medical necessity is clearly demonstrated and the physical condition of the recipient is such that the use of any other method of transportation is inadvisable)) Transportation shall be provided as a medical service or as an administrative service in designated counties.~~
- ~~(3) ((Air ambulance transportation may be provided when:~~
- ~~Necessary medical treatment is not available locally; and~~
  - ~~The emergent need for medical treatment and the physical condition of the recipient is such that the use of any other method of transportation is inadvisable)) Transportation shall only be provided or arranged through designated contractors/brokers in counties/areas where transportation is provided as an administrative service.~~
- ~~(4) When transportation is provided as a medical service the following guidelines shall apply:~~
- ~~Reimbursement for recipient transportation shall only be made:~~
    - ~~When other sources of transportation are not available, accessible, or suitable to the medical needs of the recipient; and~~
    - ~~Only for the least expensive mode of transportation available that is suitable to the recipient's medical need; and~~
    - ~~Only for transportation to and from covered medical care within the local community unless necessary and covered medical care is not available locally.~~
  - ~~Cabulance transportation ((may)) shall be ((provided)) authorized when the medical necessity is clearly demonstrated and the physical condition of the recipient is such that any less specialized means of transportation is inadvisable.~~
- ~~((5) Transportation by taxi may be provided when medically necessary. "Taxi shared ride service" must be utilized when transportation can be scheduled at least four hours in advance and the "shared ride service" is available in the community.~~
- ~~(6) Transportation by private automobile other than owned by recipient is payable at rates established by the department.~~
- ~~(7)) (c) Nonprofit organizations may provide transportation for recipients ((in accordance with the following guidelines:~~
- ~~Group or shared ride service must be utilized when transportation can be scheduled in advance and when the group or shared ride service is available through the nonprofit organization.~~
  - ~~Transportation using)) when personal transportation, volunteer transportation, and/or transit services are not available or not accessible by the recipient, and transportation is medically necessary.~~
  - ~~The use of specialized equipment, such as wheelchair lifts, ((may)) shall be ((used)) authorized when the medical necessity is clearly demonstrated and the physical condition of the recipient is such that any less specialized means of transportation is inadvisable.~~
- ~~((c) Transportation must be approved by the department:~~
- ~~Transportation to)) (c) Recipients or volunteers shall be reimbursed at rates established by the department for transportation to and from medically necessary and covered services by private automobile owned by recipient is payable at rates established by the department under the following conditions:~~
    - ~~Recipient's own automobile must be the least expensive available means suitable to the recipient's medical need. Other transportation ((with)) shall be presumed available if the location of medical services is not more than twenty miles from the recipient's home or if public transportation is available;~~
    - ~~Transportation shall not be provided outside of the local community unless necessary medical care is not available locally, and transportation outside of the local medical community shall be to a reasonable and least costly location where providers are able and willing to provide the necessary and covered medical services.~~
- ~~((9) Transportation by intercity bus may be provided:~~
- ~~(10) Commercial air transportation may be provided when:)) (f) Taxi transportation shall be authorized when medically necessary and other less expensive modes of transportation are not available or not appropriate to meet the recipient's needs.~~
- ~~(g) Interstate and intrastate transportation (e.g., bus, train, air, etc.) shall be authorized when:~~
- ~~Transportation is medically necessary; and~~
  - ~~Necessary medical treatment is not available locally; and~~
  - ~~The physical condition of the recipient is such that the use of any other method of transportation is inadvisable.~~
- ~~(h) Providers shall be certified in accordance with rules established by the division of medical assistance and shall operate their services in accordance with all federal, state, and local ordinances, statutes, and regulations.~~

NEW SECTION

WAC 388-86-086 **AMBULANCE SERVICES.** (1) Ambulance services shall be provided to transport recipients to and from medical care services covered under the medical assistance program in accordance with the following guidelines:

(a) Transport by ambulance shall be provided when medical necessity is clearly demonstrated and the physical condition of the recipient is such that the use of any other method of transportation is inadvisable.

(b) Transport shall only be made to and from medical services within the local community unless necessary medical care is not available locally.

(2) Air ambulance services shall be provided when:

(a) Necessary medical treatment is not available locally; and

(b) The emergent need for medical treatment and the physical condition of the recipient is such that the use of any other mode of transportation is inadvisable.

AMENDATORY SECTION (Amending Order 2207, filed 2/14/85)

WAC 388-87-010 **CONDITIONS OF PAYMENT—GENERAL.** (1) The department shall be responsible for payment of service rendered to a recipient only when the services are within the scope of care, properly authorized and the recipient certified as eligible.

(2) The fees and rates established by the department shall constitute the maximum allowable payment for approved medical care and services provided to recipients by the providers, except as specified in chapter 388-86 WAC.

(3) When a provider of service furnishes services to an eligible recipient and does not bill the department for services for which the department is responsible for payment, or fails to satisfy department conditions of payment such as prior approval and timely billing, the recipient is under no obligation to pay the provider.

(4) Payment for any service furnished to a recipient by a provider may not be made to or through a factor who advances money to that provider for accounts receivable.

(5) The department will not be responsible for payment for medical care and goods and/or services provided to a recipient enrolled in a department-contracted, prepaid medical plan who fails to use the provider under contract unless emergency conditions exist or the department has approved payment to another provider for provision of a service not covered by the prepaid plan.

(6) The department will not be responsible for payment of that portion of medical care or services reimbursable within a reasonable time by a third-party resource available to the recipient such as health insurance coverage, casualty insurance or when medical needs result from accident or injury caused by another party. See chapter 388-83 WAC.

(7) Payment for care under the medical assistance or limited casualty—medically needy programs will be retroactive for three months prior to the month of application provided the applicant would have been eligible when the care was received. The applicant need not be eligible at the time of actual application. Medical services that require approval must be approved by the CSO medical consultant for the retroactive period.

(8) Payment for care under the limited casualty program—medically indigent may be retroactive for seven days prior to the date of application if applicant is otherwise eligible. Medical services that require approval must be approved by the CSO medical consultant for the retroactive period.

(9) A claim by a provider for payment for services rendered to a person who subsequently is determined to be ineligible at the time service was rendered may be paid under the following conditions only:

(a) The ineligible person must have been certified as both financially and medically eligible,

(b) Payment has not been made from sources outside the department,

(c) A request for such payment must be submitted and approved by the division of medical assistance.

(10) Payment for medically necessary services shall be made on the basis of usual and customary charges or the rates established by the department, whichever is lower.

(11) Payment for well-baby care is not authorized except as provided under the EPSDT program. See WAC 388-86-027.

(12) In counties/areas where transportation is provided as a medical service, payment for medically necessary transportation services, provided by nonprofit organizations ((may)) shall be based on the operating costs incurred in providing the service but shall not exceed the rates established by the department.

AMENDATORY SECTION (Amending Order 2321, filed 12/27/85)

WAC 388-87-027 **SERVICES REQUIRING PRIOR APPROVAL.** (1) The following services require prior approval:

(a) Nonemergent surgical procedures – see WAC 388-86-095;

(b) Prosthetic devices and durable medical equipment and nonreusable medical equipment – see WAC 388-86-100;

(c) All out-of-state air transportation;

(d) Allergy testing;

(e) Apnea monitoring;

(f) Drugs not listed in the departmental formulary or any single prescription exceeding the maximum limits established – see WAC 388-91-020;

(g) Home ventilator therapy;

(h) Medical eye care services;

(i) Nonemergent hospital admissions – see WAC 388-86-050 and 388-87-070;

(j) ~~((Nonemergent medical))~~ Transportation (other than ambulance) – see WAC 388-86-085;

(k) Orthodontic treatment – see WAC 388-86-027;

(l) Out-of-state medical care which is not available within Washington state;

(m) Physical medicine, rehabilitation and treatment – see WAC 388-86-112;

(n) Physical therapy services – see WAC 388-86-070;

(o) Private duty nursing services – see WAC 388-86-071;

(p) Speech therapy, both the initial evaluation and subsequent therapy – see WAC 388-86-098;

(q) Total parenteral/enteral nutritional therapy.

(2) The division of medical assistance may approve where there are significant handicapping factors:

(a) The purchase of a hearing aid when the 50 decibel loss in the better ear is not met; or

(b) A second hearing aid and/or a replacement.

(3) On an exception basis approval may be granted, for services listed in this section, after the service(s) has been rendered.

AMENDATORY SECTION (Amending Order 2207, filed 2/14/85)

WAC 388-87-035 **PAYMENT—TRANSPORTATION ((FOR MEDICAL REASONS)) (OTHER THAN AMBULANCE).** (1) Payment for ~~((patient))~~ recipient transportation shall be made for ~~((eligible))~~ individuals ((according to)) eligible in accordance with WAC 388-86-085.

(2) ~~((Payment for patient))~~ When transportation ((services)) is provided as a medical service the following shall apply:

~~((a))~~ Payment shall be made on the basis of usual and customary charges or the rates established by the department, whichever is lower. Except that, payment for ((patient)) recipient transportation provided by nonprofit organizations ((may)) shall be made on the basis of the operating costs incurred in providing that transportation but shall not exceed the rates established by the department.

~~((b))~~ Methods of reimbursement and required billing procedures for ((patient)) recipient transportation services shall be published as necessary by the division of medical assistance.

~~((c))~~ Providers of ((patient)) recipient transportation services must show medical justification on the billing document for the type of transportation utilized as well as the need for medical care.

~~((5))~~ Ambulances, air ambulances and commercial air transportation services shall be licensed, operated and equipped in accordance with applicable federal, state and local statutes, ordinances and regulations.

~~((d))~~ Cabulances shall be operated and equipped in accordance with minimum requirements established by the division of medical assistance and other applicable statutes, ordinances and regulations.

~~((7))~~ Taxi and bus transportation services shall be operated and equipped in accordance with state and local statutes, ordinances and regulations.

~~((8))~~ Vehicles utilized by nonprofit organizations ((to provide)) seeking reimbursement for transportation services provided recipients

shall be operated and equipped in accordance with minimum requirements established by the division of medical assistance and other applicable statutes, ordinances, and regulations.

(g) Commercial air transportation services shall be licensed, operated, and equipped in accordance with applicable federal, state, and local statutes, ordinances, and regulations.

(3) Payment for recipient transportation when provided as an administrative service shall be made according to the contracts between the department and the contractor.

#### NEW SECTION

WAC 388-87-036 PAYMENT—AMBULANCE SERVICES.

(1) Payment for ambulance services provided eligible recipients shall be made according to WAC 388-86-086.

(2) Payment for ambulance services provided eligible recipients shall be made on the basis of usual and customary charges or the rates established by the department, whichever is lower.

(3) Methods of reimbursement and required billings procedures for ambulance services provided eligible recipients shall be published as necessary by the division of medical assistance.

(4) Providers of ambulance services must show medical justification on billing document for transport and other services/supplies as well as the need for medical care.

(5) Ground and air ambulance shall be licensed, operated, and equipped in accordance with applicable federal, state, and local statutes, ordinances, and regulations.

**WSR 88-03-022**  
**PROPOSED RULES**  
**BOARD OF HEALTH**  
[Filed January 12, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Health intends to adopt, amend, or repeal rules concerning communicable and certain other diseases, chapter 248-100 WAC;

that the agency will at 9:30 a.m., Wednesday, March 9, 1988, in the St. Placid Priory, Multi-Purpose Room, 320 College Street S.E., Lacey, 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 43.20.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 9, 1988, to State Board of Health, ET-23, Olympia, Washington 98504.

Dated: January 6, 1988

By: Thelma Struck, Assistant Secretary  
Health and Rehabilitative Services

#### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending chapter 248-100 WAC, Communicable and certain other diseases.

Purpose of the Rule Changes: To update State Board of Health rules controlling communicable and certain other diseases. This update is a continuation of the material adopted in April 1987.

Reasons These Rules are Necessary: To replace outdated requirements with rules consistent with current epidemiological evidence, technology, and knowledge; and to reformat material consistent and supplementing

rule amendments adopted by the state board in April 1987.

Statutory Authority: RCW 43.20.050.

Summary of the Rule Change: New sections incorporate material from several proposed and previously repealed sections setting forth updated requirements for health officers and veterinarians, immunization of children, special settings, and control of animal diseases.

Persons Responsible for Drafting, Implementation and Enforcement: Dr. John Kobayashi, Medical Epidemiologist and Section Head, Office of Disease Prevention and Control, Division of Health, mailstop B17-9, phone (206) 361-2914.

The rule amendments are proposed by DSHS for adoption by the State Board of Health.

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

#### AMENDATORY SECTION (Amending Order 302, filed 5/19/87)

WAC 248-100-011 DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of chapter 248-100 WAC:

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

(2) "Carrier" means a person harboring a specific infectious agent and serving as a potential source of infection to others, but who does not have symptoms of the disease.

(3) "Case" means a person, alive or dead, having been diagnosed to have a particular disease or condition by a health care provider with diagnosis based on clinical or laboratory criteria or both.

(4) "Category A disease or condition" means a reportable disease or condition of urgent public health importance, a case or suspected case of which must be reported to the local or state health officer immediately at the time of diagnosis or suspected diagnosis.

(5) "Category B disease or condition" means a reportable disease or condition of public health importance, a case of which must be reported to the local health officer no later than the next working day following date of diagnosis.

(6) "Category C disease or condition" means a reportable disease or condition of public health importance, a case of which must be reported to the local health officer within seven days of diagnosis.

(7) "Communicable disease" means an illness caused by an infectious agent which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission via an intermediate host or vector, food, water, or air.

(8) "Contact" means a person exposed to an infected person, animal, or contaminated environment which might provide an opportunity to acquire the infection.

(9) "Child day care facility" or "day care center" means an agency regularly providing care for a group of children for less than twenty-four hours a day and subject to licensing under chapter 74.15 RCW.

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

(11) "Food handler" means any person preparing, processing, handling, or serving food or beverages for people other than members of his or her household.

(12) "Food service establishment" means any establishment where food or beverages are prepared for sale or service on the premises or elsewhere, and any other establishment or operation where food is served or provided for the public with or without charge.

(13) "Health care facility" means any facility or institution licensed under chapter 18.20 RCW, boarding home, chapter 18.46 RCW, maternity homes, chapter 18.51 RCW, nursing homes, chapter 70.41 RCW, hospitals, or chapter 71.12 RCW, private establishments, clinics, or other settings where one or more health care providers practice.

(14) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care or medical care including persons licensed in this state under Title 18 RCW to practice medicine, podiatry, chiropractic, optometry, osteopathy, nursing, midwifery, dentistry, physician assistants, and military personnel providing health care within the state regardless of licensure.

(15) "Infection control measures" means the management of infected persons, persons suspected to be infected, and others in such a manner as to prevent transmission of the infectious agent.

(16) "Isolation" means the separation or restriction of activities of infected persons, or of persons suspected to be infected, from other persons to prevent transmission of the infectious agent.

(17) "Laboratory director" means the director or manager, by whatever title known, having the administrative responsibility in any medical laboratory.

(18) "Local health department" means the city, town, county, or district agency providing public health services to persons within the area, as provided in chapter 70.05 RCW and chapter 70.08 RCW.

(19) "Local health officer" means the individual having been appointed under chapter 70.05 RCW as the health officer for the local health department, or having been appointed under chapter 70.08 RCW as the director of public health of a combined city-county health department.

(20) "Medical laboratory" means any facility analyzing specimens of original material from the human body for purposes of patient care.

(21) "Nosocomial infection" means an infection acquired in a hospital or other health care facility.

(22) "Outbreak" means the occurrence of cases of a disease or condition in any area over a given period of time in excess of the expected number of cases.

(23) "Principal health care provider" means the attending physician or other health care provider recognized as primarily responsible for diagnosis and treatment of a patient or, in the absence of such, the health care provider initiating diagnostic testing or therapy for a patient.

(24) "Quarantine" means the separation or restriction on activities of a person having been exposed to or infected with an infectious agent, to prevent disease transmission.

(25) "Reportable disease or condition" means a disease or condition of public health importance, a case of which, and for certain diseases, a suspected case of which, must be brought to the attention of the local health officer.

~~(26) ("Restrictable infection" means any disease, condition, illness, infection, or infestation having the likelihood of being transmitted from one person to another within certain specified occupations or settings making it necessary to restrict persons with such an infection from that occupation or setting during the communicable period in order to prevent serious and predictable consequences resulting from transmission of infection.~~

~~(27))~~ "School" means a facility for programs of education as defined in RCW 28A.31.102 (preschool and kindergarten through grade twelve).

~~((28))~~ (27) "State health officer" means the person designated by the secretary of the department to serve as statewide health officer, or, in the absence of such designation, the person having primary responsibility for public health matters in the state.

~~((29))~~ (28) "Suspected case" means a person whose diagnosis is thought likely to be a particular disease or condition with suspected diagnosis based on signs and symptoms, laboratory evidence, or both.

~~((30))~~ (29) "Unusual communicable disease" means a communicable disease which is not commonly seen in the state of Washington but which is of general public health concern including, but not limited to, Lassa fever, smallpox, typhus, and yellow fever.

~~((31))~~ (30) "Veterinarian" means an individual licensed under provisions of chapter 18.92 RCW, veterinary medicine, surgery, and dentistry.

#### NEW SECTION

WAC 248-100-026 RESPONSIBILITIES AND DUTIES—VETERINARIANS. (1) Veterinarians shall:

(a) Notify the local health officer of any human case, suspected case, outbreak, or suspected outbreak of reportable disease listed in WAC 248-100-076;

(b) Notify the state veterinarian, Washington state department of agriculture, within one working day of any animal case, suspected case, outbreak, or suspected outbreak of:

- (i) Anthrax,
- (ii) Brucellosis,
- (iii) Equine encephalitis,
- (iv) Plague,
- (v) Rabies,
- (vi) Psittacosis, and
- (vii) Tuberculosis.

(2) Upon receipt of a report of human disease, the state health officer shall immediately notify the state veterinarian of reports of:

- (a) Anthrax,

- (b) Brucellosis,
- (c) Psittacosis,
- (d) Equine encephalitis,
- (e) Plague,
- (f) Rabies, and
- (g) Tuberculosis in an animal handler.

(3) Upon receipt of a report of animal disease, the state veterinarian shall notify the state health officer of reports of:

- (a) Anthrax,
- (b) Brucellosis,
- (c) Psittacosis,
- (d) Equine encephalitis,
- (e) Plague,
- (f) Rabies, and
- (g) Tuberculosis.

#### NEW SECTION

WAC 248-100-036 RESPONSIBILITIES AND DUTIES—LOCAL HEALTH OFFICERS. (1) The local health officer shall review and determine appropriate action for:

(a) Each reported case or suspected case of a reportable disease or condition;

(b) Any disease or condition considered a threat to public health;

(c) Each reported outbreak or suspected outbreak of disease, requesting assistance from the department in carrying out investigations when necessary; and

(d) Instituting disease prevention and infection control, isolation, and quarantine measures necessary to prevent the spread of communicable disease, invoking the power of the courts to enforce these measures when necessary.

(2) Local health officers shall:

(a) Submit reports to the state health officer as required in chapter 248-100 WAC;

(b) Establish a system at the local health department for maintaining confidentiality of written records and written and telephoned disease case reports;

(c) Notify health care providers within the health district regarding requirements in this chapter;

(d) Distribute appropriate report forms to persons responsible for reporting; and

(e) Notify the principle health care provider, if possible, prior to initiating a case investigation by the local health department.

(3) Each local health officer has the authority to:

(a) Carry out additional steps determined to be necessary to verify a diagnosis reported by a health care provider;

(b) Require any person suspected of having a reportable disease or condition to submit to examinations required to determine the presence of the disease or condition; and

(c) Investigate any case or suspected case of a reportable disease or condition or other illness, communicable or otherwise, if deemed necessary.

(4) Local health officers shall conduct investigations and institute control measures consistent with those indicated in the fourteenth edition (1985) of Control of Communicable Diseases in Man, edited by Abram S. Benenson, published by the American public health association, except:

(a) When superseded by more up-to-date measures, or

(b) When other measures are more specifically related to Washington state.

#### NEW SECTION

WAC 248-100-166 IMMUNIZATION OF DAY CARE AND SCHOOL CHILDREN AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES. (1) Definitions for purposes of this section:

(a) "Certificate of immunization status (CIS) form" means a form provided by the department labeled DSHS 13-263, including data entry spaces for immunization information including:

(i) Name of child or student,

(ii) Birth date,

(iii) Sex,

(iv) Type of vaccine,

(v) Date of each dose of vaccine received specifying day, month, and year,

(vi) Signature of parent, legal guardian, or adult in loco parentis, and

(vii) Documented exemptions, if applicable and as specified in subsection (5) of this section.

(b) "Chief administrator" means:

(i) The person with the authority and responsibility for the immediate supervision of the operation of a school, day care center, or

(ii) A designee of the chief administrator assigned in writing to carry out the requirements of RCW 28A.31.118 through the statutory or corporate board of directors of the school district or school, or

(iii) Person or persons with the authority and responsibility for the general supervision of the operation of the school district or school.

(c) "Child" means any person regardless of age admitted to any day care center, preschool, kindergarten, or grades one through twelve program of education in:

(i) Any public school district, or

(ii) Any private school or private institution subject to approval by the state board of education or described in RCW 28A.04.120(4) and 28A.02.201 through 28A.02.260.

(d) "Full immunization" means vaccinated in accordance with schedules and immunizing agents approved by the state board of health in WAC 248-100-166 against:

(i) Diphtheria,

(ii) Tetanus,

(iii) Pertussis or whooping cough,

(iv) Measles or rubeola,

(v) Rubella,

(vi) Mumps, and

(vii) Poliomyelitis.

(e) "Immunizing agents" means any vaccine or other biologic licensed and approved by the bureau of biologics, United States Food and Drug Administration (FDA), for immunization of persons against:

(i) Diphtheria, tetanus, pertussis (DTP, DT, Td);

(ii) Measles;

(iii) Mumps;

(iv) Poliomyelitis, types I, II, and III (TOPV, IPV); and

(v) Rubella;

(f) "National immunization guidelines" means schedules for immunization described in:

(i) 1986 American Academy of Pediatrics (AAP) red book; or

(ii) Advisory Committee on Immunization Practices (ACIP) or General Recommendations on Immunization, January 14, 1983; and

(iii) New Recommended Schedule for Active Immunization of Normal Infants and Children, 9/19/86, Advisory Committee on Immunization Practices (ACIP), United States public health service.

(g) "Parent" means the mother, father, legal guardian, or designated caretaker of a child seventeen years of age or younger, or a person eighteen years of age or older who is an emancipated minor; and

(h) "Transfer student" means a student previously enrolled in grades kindergarten through twelve moving from one school district or system to another at any time during the school year, excluding students transferring within a district or system when the school transfers records within the district.

(2) Full immunization schedule. Each day care, preschool, and school shall establish and maintain requirements for full immunization of children attending day care and preschool through grade twelve.

(3) For day care and preschool children, full immunization means a child received vaccines consistent with the National Immunization Guidelines defined in subsection (1) of this section and including:

(i) DTP, DT, or Td;

(ii) Polio;

(iii) Measles;

(iv) Mumps; and

(v) Rubella.

(4) For school attendance, full immunization means a child received vaccines as follows:

(a) A minimum of four doses of either DTP, DT, or Td with last dose after four years of age and excluding tetanus toxoid received for wound management, consistent with national immunization guidelines defined in subsection (1) of this section, or

(b) Three doses of Td excluding tetanus toxoid received for wound management if the series began at seven years of age or older, and

(c) A minimum of three doses of trivalent oral poliomyelitis vaccine (TOPV) or four doses of trivalent inactivated poliomyelitis vaccine (IPV) with last dose received after four years of age and consistent with national immunization guidelines defined in subsection (1) of this section, and

(d) One dose of live virus measles vaccine at or after one year of age unless a child provides proof of past infection with measles virus (an acceptable measles virus antibody titer result), and

(e) One dose of live virus rubella vaccine at or after one year of age unless a student provides proof of past infection with rubella virus (an acceptable rubella antibody titer result), and

(f) One dose of live virus mumps vaccine administered at or after one year of age for students in kindergarten or first grade, whichever is the entry level.

(5) Conditions for day care, preschool, and school attendance when a child is not fully immunized:

(a) When a child lacks full immunization, the day care, preschool, or school shall require satisfactory progress toward full immunization as a condition of school attendance including:

(i) Documented proof of start or continuance of child's schedule of immunization;

(ii) Assurance the scheduled immunization is consistent with the national immunization guidelines defined in subsection (1) of this section;

(iii) Proof of completion of the required immunization or immunizations for admission the following year, no later than the child's first day of attendance; and

(iv) Issuance of an order of exclusion as described in subsection (9) of this section if:

(A) Sufficient time for completion of required immunizations elapses, and

(B) The child has not completed the required immunizations in time.

(b) When immunization schedules are incomplete due to insufficient time, the chief administrator shall:

(i) Notify the child's parents of when the schedule must be completed, and

(ii) Issue an order of exclusion if not completed by that date.

(6) Schools, preschools, and day care centers shall require documented proof related to immunization including:

(a) Completion of a certificate of immunization status (CIS) form by a parent as documented proof of:

(i) Full immunization, or

(ii) Initiation or continuation of a schedule, or

(iii) Exemption.

(b) Information from a written personal immunization record, given to the immunized person or to his or her parent by the physician or agency administering the immunization, as the source of the immunization data entered on the CIS form and prohibiting substitution of a personal immunization record for a CIS form;

(c) Acceptance of only the revised CIS form from new enrollees registering in kindergarten through grade twelve;

(d) In addition to current CIS form, acceptance of previous CIS forms, DSHS 13-263, or locally developed forms approved by the department indicating the month and year of each immunization as the official immunization status for children enrolled prior to September 1, 1979; and

(e) No additional proof of immunization as a condition to attend a particular day care, preschool, or school if the school keeps the CIS or other department-approved forms for children verifying:

(i) Proof of full immunization, or

(ii) Proof of exemption from immunization.

(7) Schools, preschools, and day care centers shall accept medical exemptions and:

(a) Require a signature of a licensed physician to certify medical reasons to defer one or more immunizations on the CIS form;

(b) Admit children and keep on file a CIS form for children with:

(i) Temporary exemption from immunization for medical reasons if the required immunizations are received upon expiration of the exemption, or

(ii) Permanent exemptions.

(c) Include a statement on the CIS form informing the parent that should an outbreak of vaccine preventable disease for which the child is exempted occur, the child may be excluded from school or day care for the duration of the outbreak by order of the local health department as described in subsection (9) of this section; and

(d) Keep on file a list of children so exempted and transmit the list to the local health department if requested.

(8) Schools, preschools, and day care centers shall accept religious, philosophical or personal exemptions and:

(a) Allow a parent to exempt their child from the required immunizations for religious, philosophical, or personal objections when the CIS form indicates:

- (i) Type or exemption, and
- (ii) Signature of parent.

(b) Admit children and keep on file a CIS form for each child so enrolled;

(c) Include a statement on the CIS form informing the parent that should an outbreak of vaccine preventable disease for which the child is exempted occur, the child may be excluded from school for the duration of the outbreak by order of the local health department as described in subsection (9) of this section; and

(d) Keep on file a list of children so exempted and transmit the list to the local health department if requested.

(9) Schools, preschools, and day care centers shall exclude children from school as follows:

(a) Exclude any child from school for failure to provide a completed CIS form as defined in subsection (1) of this section before or on the child's first day of attendance consistent with procedures required by the state board of education, Title 180 WAC;

(b) Exclude from attendance any child in a day care center for failure to provide a completed CIS form as defined in subsection (1) of this section before or on the child's first day of attendance;

(c) The chief administrator shall retain records on excluded children for at least three years including:

- (i) Name,
- (ii) Address, and
- (iii) Date of exclusion.

(d) A health officer may exclude children from school, preschool, and day care attendance in the event of a child's exposure to a disease according to chapter 248-101 WAC, including children presenting proof of:

- (i) Initiation of a schedule of immunization,
- (ii) Medical exemption,
- (iii) Religious exemption,
- (iv) Philosophical exemption, or
- (v) Personal exemption.

(10) Schools, preschools, and day care centers shall maintain records and require:

(a) A completed CIS form retained in the files for every child enrolled;

(b) Return of records to the parent in the event of the child's withdrawal from school or transfer including:

- (i) The original CIS form; or
- (ii) A legible copy of the CIS form; and
- (iii) Prohibiting withholding of a record for nonpayment of school, preschool, or day care fees or any other reason.

(c) Access to immunization records for each child enrolled by agents of the state or local health department.

(11) Persons or organizations administering immunizations, either public or private, shall:

(a) Furnish each person immunized, or his or her parent, with a written record of immunization containing information required by the state board of health; and

(b) Provide immunizations and records in accordance with chapter 248-100 WAC.

(12) Chief administrators of schools, preschools, and day care centers shall report as follows:

(a) The chief administrator of each school shall forward a written annual report to the department and local health department on the immunization status of children in school:

(i) By October 15 of each year, except in the event of a late school opening when the report is due thirty days after the first day of school; and

- (ii) On forms provided by the department.

(b) The chief administrator of each preschool and day care center shall forward a written annual report to the department and local health department on the immunization status of children in preschool or day care on forms provided by the department.

#### NEW SECTION

**WAC 248-100-171 SPECIAL SETTINGS—FOOD SERVICE ESTABLISHMENTS.** (1) Food handlers with communicable disease in an infectious or carrier state shall not handle food or beverages if the infectious agent can be transmitted through food or beverages.

(2) Employers or persons in charge of food service establishments shall prohibit persons from work as food handlers with a known disease, condition, and/or carrier state including, but not limited to:

- (a) Amebiasis;
- (b) B hemolytic streptococcal infection;
- (c) Campylobacter;
- (d) Cholera;
- (e) Hepatitis A and Hepatitis unspecified;
- (f) Salmonellosis, including typhoid and paratyphoid;
- (g) Shigellosis;
- (h) Staphylococcal infections; and
- (i) Signs of undiagnosed infection including:

(A) Diarrhea (with episodes of over forty-eight hours requiring approval by a health care provider or local health officer prior to return to work);

- (B) Skin lesions;
- (C) Vomiting; or
- (D) Fever.

(3) Work restrictions, control measures, and removal of work restrictions on food handlers and food service establishments shall be consistent with:

(a) Control of Communicable Diseases in Man, 14th edition, Abram S. Benenson (editor), American public health association, 1985;

(b) Chapter 248-84 WAC food service sanitation, rules, and regulations of the Washington state board of health; and

(c) Chapter 69.06 RCW, food and beverage establishments, workers permits.

(4) Employers and persons in charge of food service establishments shall:

(a) Require notification or approval of removal of work restriction by a health care provider or local health officer for persons working with diseases, carrier states, conditions and signs listed in subsection (2) of this section; and

(b) Cooperate with public health officials investigating cases, outbreaks, or suspected outbreaks.

(5) The local health department has authority to:

(a) Require an examination of a person or persons to determine presence of infection,

(b) Adopt more stringent rules for excluding a food handler from work, and

(c) Protect public safety consistent with chapter 248-84 WAC by ordering food items to be:

- (i) Placed under a hold order,
- (ii) Destroyed immediately,
- (iii) Surrendered,
- (iv) Sampled, and
- (v) Submitted for laboratory testing.

#### NEW SECTION

**WAC 248-100-176 SPECIAL SETTINGS—SCHOOLS.** Private and public schools, vocational schools, colleges, and universities shall cooperate with local and state health officers in carrying out requirements in chapters 248-101 and 248-100 WAC.

#### NEW SECTION

**WAC 248-100-181 SPECIAL SETTINGS—CHILD DAY CARE FACILITIES.** Child day care facilities shall:

(1) Establish policy and procedures for prevention and control of communicable diseases in employees, voluntary staff, and children that:

(a) Are consistent with "child health care plan guidelines" available from division of health, office of licensing and certification, personal care facilities survey section, ET-33, Olympia, Washington 98504; and/or

(b) Are consistent with additional or more stringent recommendations of the local health department; and

(c) Include a provision for reporting illness to the local health department when required in chapter 248-100 WAC and WAC 388-73-056.

(2) Consult with a health care provider or the local health department for information about infectious or communicable disease, as necessary.

NEW SECTION

WAC 248-100-186 SPECIAL SETTINGS—HEALTH CARE FACILITIES. Health care facilities shall:

(1) Adopt written policy and procedures restricting work of employees, staff, students, and volunteers diagnosed to have a communicable disease from direct contact with patients, residents, and recipients of care during the period of communicability when:

(a) Transmission of the disease to recipients of care or other employees can occur in that particular job environment, and

(b) The disease can cause serious illness.

(2) Permit employees, staff, students, and volunteers to return to work when measures have been taken to prevent transmission of disease if:

(a) Measures are consistent with recommendations of an infection control committee or equivalent authorized group if existing, and

(b) Measures are consistent with recommendations of local health officer.

(3) Comply with applicable state licensure law and department rules regarding communicable disease screening and control.

NEW SECTION

WAC 248-100-191 ANIMALS, BIRDS, PETS—MEASURES TO PREVENT HUMAN DISEASE. (1) All persons and entities are prohibited from:

(a) Sale of milk, meat, hides, and hair from animals infected with anthrax; and

(b) Sale and display of turtles except as permitted under Title 21 CFR, food and drug administration, part 1240.62, 1986.

(2) Except for bonafide public or private zoological parks, persons and entities are prohibited from:

(a) Importing into Washington state any bat, skunk, fox, raccoon, or coyote without a permit from the director of the Washington state department of agriculture, as required in WAC 16-54-125; and

(b) Acquiring, selling, bartering, exchanging, giving, purchasing, or trapping for retention as pets or for export any:

- (i) Bat,
- (ii) Skunk,
- (iii) Fox,
- (iv) Raccoon, and
- (v) Coyote.

(3) Local health officers shall determine whether or not to order the destroying or testing of animals other than cats and dogs if:

(a) The animal has bitten or otherwise exposed a person, and

(b) Rabies is suspected.

(4) When an animal has bitten or otherwise exposed a person, the local health officer shall institute any or all of the following as judged appropriate:

(a) Order testing and destruction of the animal,

(b) Order restriction of dogs and cats for ten days observation,

(c) Require examination and recommendation by a veterinarian related to signs of rabies, or

(d) Specify other appropriate actions for animals considered low risk for rabies.

(5) When an animal other than a bat is found to be rabid, the local health officer shall immediately institute a community-wide rabies control program including:

(a) Issuance of orders to pick up and impound all stray and unlicensed dogs and cats,

(b) Issuance of orders to owners of dogs and cats requiring proof of rabies vaccination of animals by a veterinarian within six previous months,

(c) Restriction of household mammals to owners' premises except when on a leash, or

(d) Institute actions other than subsection (5)(a), (b), and (c) of this section when judged appropriate.

(6) A person destroying an animal as described in this section shall:

(a) Avoid damaging the brain; and

(b) Transport the dead animal's head, brain, or body in a manner approved by the local health department.

(7) To improve surveillance for rabies, laboratories shall inform the local health officer prior to testing specimens and samples for rabies.

(8) When a cat or dog has been bitten or exposed to a rabid or suspected rabid animal, the local health officer shall require:

(a) Destruction of the exposed animal; or

(b) Revaccination, if currently vaccinated, including observation by owner for ninety days; or

(c) If not currently vaccinated, vaccination and strict isolation for six months with revaccination one month prior to release from isolation; or

(d) Any other action judged appropriate by the local health officer.

(9) A person importing a dog and/or a cat into Washington state shall comply with WAC 16-54-120.

NEW SECTION

WAC 248-100-196 ANIMAL BITES—REPORT TO LOCAL HEALTH DEPARTMENT. Health care providers shall:

(1) Report all cases of humans exposed to secretions or bitten by domestic or wild animals, especially bats and carnivores, to the local health department or designated local authority;

(2) Report bites of rodents and lagomorphs only when signs of illness are present in the animal; and

(3) Use protocols established in Communicable Diseases in Man, 14th edition, Abram S. Benenson, editor, 1985, when treating wounds caused by animal bites.

NEW SECTION

WAC 248-100-201 BIRDS—MEASURES TO PREVENT PSITTACOSIS. (1) Definitions specific to this section:

(a) "Breeder" means a person or persons propagating birds for purpose of sale, trade, gift, or display;

(b) "Displayer" means a person, owner, or entity other than a public or private zoological park showing, exhibiting, or allowing a person or persons to handle or access a bird in a place open to the public or in a health care facility;

(c) "Leg band" means a smooth plastic or metal cylinder, either open (seamed) or closed (seamless), designed to be used to encircle a leg of a bird including permanent inscription of identification indicating:

(i) Code for individual bird, and

(ii) Code for breeder source except when open bands identify vendor rather than breeder.

(d) "Psittacine bird" or "bird" means all birds commonly known as:

- (i) Parrots,
- (ii) Macaws,
- (iii) Cockatoos,
- (iv) Lovebirds,
- (v) Parakeets, and
- (vi) All other birds of the order psittaciformes.

(e) "Vendor" means a person or entity selling, trading, or giving a bird to another person or entity.

(2) A person selling, trading, or otherwise transferring a bird shall identify each bird by:

(a) A coded and closed (seamless) leg band;

(b) A United States department of agriculture open (seamed) leg band; or

(c) An open (seamed) leg band only in cases where an original and closed (seamless) leg band was lost or required replacement due to injury or potential injury to the bird.

(3) A vendor transferring a bird to other than the general public shall maintain a record of transfer including acquisition, sales, and trade of a bird, for at least one year and including:

(a) Date of transaction;

(b) Name and address of the recipient and source;

(c) Number and type, including the common name of the bird transferred; and

(d) Leg band codes, including breeder or vendor and individual bird codes, omitting individual bird code only upon initial transfer of a bird propagated by the breeder.

(4) A vendor transferring a bird to the general public shall provide each buyer or recipient with:

(a) A sales slip or written document including all information required in subsection (3)(a), (b), (c), and (d) of this section; and

(b) A written warning or caution notice including:

(i) Information about possible human infection or disease caused by birds, especially psittacosis, parrot fever, and ornithosis;

(ii) Signs of infection or a sick bird including:

- (A) Nasal discharge,
- (B) Sneezing,
- (C) Coughing,
- (D) Ruffled feathers,
- (E) Lethargy, and
- (F) Diarrhea.

(iii) Signs and symptoms of an illness in a human including, but not limited to:

- (A) Chills,
- (B) Fever,
- (C) Headache,
- (D) Cough, and
- (E) Muscle aches.

(iv) Information that nasal discharge and droppings of an infected or sick bird may cause illness in humans; and

(v) Advice to consult veterinarian or health care provider, as appropriate, if signs or symptoms occur.

(5) A vendor shall post a readable sign in a public area with a warning described in subsection (4)(a) of this section.

(6) When investigation of a human case of psittacosis indicates probable infection from a bird, the local health officer shall:

(a) Order collection of blood or other appropriate samples from the suspect bird or birds for appropriate laboratory tests to rule out disease; or

(b) Use protocols established in Communicable Diseases in Man, 14th edition, Abram S. Benenson, editor, 1985; and

(c) Have authority to enforce requirements of this section on a nonsittacine bird or birds when:

- (i) There is suspected exposure to an infected bird, or
- (ii) There is evidence a bird caused a disease.

(7) When a local health officer orders a quarantine of a bird or birds, the vendor shall:

- (a) Cooperate with the local health officer, and
- (b) Assume costs associated with action.

(8) Upon confirmation of psittacosis, vendors shall follow directions issued by the local health officer to:

(a) Place the birds under antibiotic treatment with environmental cleaning and sanitizing; or

(b) Destroy all birds on the premises followed by environmental cleaning and sanitizing; and

(c) Assume costs associated with psittacosis prevention and control action ordered by local and state health officer;

- (d) Prohibit sale or addition of birds to inventory; and
- (e) Prevent contact of any bird with the public.

(9) A person exhibiting or displaying a bird or birds in a place or area used or occupied by the public shall exhibit the bird or birds in a manner preventing human exposure to the birds and bird discharges except:

- (a) In single-purpose pet shops and aviaries, and
- (b) At bird shows if:

(i) A room containing a bird or birds is separated from other areas and activities, and

- (ii) The room entrance has a sign warning a person about potential exposure to psittacosis.

(10) Shipment and embargo of birds.

(a) Any person or entity receiving a psittacine bird or birds from points outside Washington state shall:

- (i) Comply with Title 9 CFR, parts 92.3 and 92.8(b);

(ii) Refuse receipt of any bird originating from premises where psittacosis infection is suspected or known; and

(iii) Refuse receipt of any bird from a premise quarantined for psittacosis.

(b) The state health officer is authorized to:

(i) Order placement and removal of an embargo upon shipment of a live bird or birds into Washington state, and

(ii) Order any action necessary to control an outbreak or potential outbreak of psittacosis in Washington state.

#### AMENDATORY SECTION (Amending Order 302, filed 5/19/87)

WAC 248-100-231 DUTIES OF LABORATORIES—SUBMISSION OF SPECIMENS BY LABORATORIES. (1) The director of every medical laboratory shall:

(a) Submit microbiologic cultures, subcultures, or appropriate clinical material as specified in subsection (2) of this section to the Washington state public health laboratory or other laboratory designated by the state health officer for diagnosis, confirmation, or further testing;

(b) Identify each specimen on a form provided or approved by the department including:

- (i) The patient's name, and, if available,

(ii) Age, sex, date of onset of illness, first and last name of principal health care provider.

(2) When test results indicate possible infection with any of the following, laboratory action shall include:

(a) Brucellosis (*Brucella* species): Submit suspicious subcultures for confirmation and final identification;

(b) Cholera (*Vibrio cholerae*): Submit subcultures for confirmation and final identification;

(c) Diphtheria (*Corynebacterium diphtheriae*): Submit subcultures for identification and for toxin study when indicated;

(d) Malaria (*Plasmodium* species): Laboratories are encouraged to submit thick and thin stained smears for conformation, final identification, and forwarding for international epidemiologic surveillance;

(e) Meningococcal infection of blood or spinal fluid (*Neisseria meningitidis*): Submit subcultures for confirmation and final identification;

(f) Plague (*Yersinia pestis*): Submit subcultures or appropriate clinical material for confirmation;

(g) Salmonellosis, including typhoid fever (*Salmonella* species): Submit subcultures for confirmation and serotyping;

(h) Shigellosis (*Shigella* species): Submit subcultures for confirmation and serotyping;

(i) Syphilis (*Treponema pallidum*): Submit reactive or weakly reactive serologic specimens for confirmation and further definitive testing;

(j) Mycobacteriosis, including tuberculosis (*Mycobacterium* species): Submit subcultures of initial isolates for:

- (i) *Mycobacterium tuberculosis*,
- (ii) *Mycobacterium bovis*, and

(iii) Other mycobacterial species when isolate is suspected of causing disease(†-and);

(k) Tularemia (*Francisella tularensis*): Submit subcultures or appropriate clinical material for confirmation.

(3) When clinical impression and epidemiologic circumstances indicate a possible case of botulism, laboratory action shall include the following:

(a) Infant botulism: Submit stool for clostridium botulinum identification and toxin typing,

(b) Food borne botulism:

(i) Submit serum and stool for *C. botulinum* identification and toxin typing(†); and

(ii) If available, submit suspect foods (ideally in original containers).

(c) Wound botulism: Submit subculture or serum, debrided tissue, or swab sample from wound for *C. botulinum* identification.

(4) The state health officer may require submission of specimens for other infections of public health concern as described in WAC 248-100-041.

**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 302, filed 5/19/87)

WAC 248-100-236 DUTIES OF LABORATORIES—REPORTING OF LABORATORY RESULTS INDICATIVE OF CERTAIN REPORTABLE DISEASES. (1) By December 31, 1987, medical laboratories shall:

(a) Report each positive culture or other suggestive test results to the local health officer by phone, written report, or submission of specimen within two working days, unless specified otherwise, for:

(i) Anthrax (*Bacillus anthracis*),

(ii) Botulism (*Clostridium botulinum*),

(iii) Cholera (*Vibrio cholerae*),

(iv) Diphtheria (*Corynebacterium diphtheriae*) - toxigenic strains,

(v) Gonorrhoea (*Neisseria gonorrhoeae*) (report within seven days),

(vi) Measles (rubeola) (measles virus),

(vii) Plague (*Yersinia pestis*),

(viii) Rabies (rabies virus),

(ix) Brucellosis (*Brucella* species),

(x) Leptospirosis (*Leptospira interrogans*),

(xi) Listeria infection of blood or spinal fluid (*Listeria monocytogenes*),

(xii) Meningococcal infection of blood or spinal fluid (N. (~~meningitidis~~) meningitidis),

(xiii) Pertussis (*Bordetella pertussis*),

(xiv) Salmonellosis (*Salmonella* species),

(xv) Shigellosis (*Shigella* species), and

(xvi) Hepatitis A (positive anti-HAV IgM).

(b) Send a copy of the state form accompanying specimen submitted as required in WAC 248-100-231 or identifying information including:

- (i) Type of specimen tested (e.g., serum or sputum),
- (ii) Test result,
- (iii) Name of reporting laboratory,
- (iv) Date of report,
- (v) Name of requesting health care provider or health care facility, and
- (vi) Name of patient.

(2) By December 31, 1987, medical laboratories shall report positive cultures or other suggestive test results for chlamydial infection (chlamydia trachomatis) to local health departments monthly including either:

- (a) Identifying information specified in subsection (1)(b)(i-vi) of this section, or
- (b) Aggregate numbers of positive tests including age, sex, and site of infection when known.
- (3) Medical laboratories shall label or stamp reports appropriately with information indicating "reportable disease" and the telephone number of the local health department, if such labels or stamps are provided by the local health department.
- (4) State and local health officers and health departments receiving reports from medical laboratories shall:
  - (a) Allow time for the laboratory to notify the principal health care provider prior to contact if:
    - (i) Delay is unlikely to jeopardize public health, and
    - (ii) The laboratory requests a delay.
  - (b) Try to contact the principal health care provider and discuss circumstances prior to contact of a patient when possible.

**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.

**REPEALER**

- The following sections of the Washington Administrative Code are repealed:
- WAC 248-100-025 GENERAL—INVESTIGATIVE DUTY OF HEALTH OFFICERS.
  - WAC 248-100-050 REPORTS OF DISEASES BY HEALTH CARE PROVIDERS AND OTHERS—HEALTH OFFICERS.
  - WAC 248-100-163 IMMUNIZATION OF SCHOOL CHILDREN AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES.
  - WAC 248-100-164 IMMUNIZATION OF CHILDREN ATTENDING DAY CARE CENTERS AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES.
  - WAC 248-100-440 PSITTACOSIS (ORNITHOSIS).
  - WAC 248-100-450 RABIES.
  - WAC 248-100-452 MANAGEMENT OF RABIES OUTBREAK.

**WSR 88-03-023**  
**EMERGENCY RULES**  
**DEPARTMENT OF WILDLIFE**  
**(Wildlife Commission)**  
 [Order 340—Filed January 12, 1988]

Be it resolved by the State Wildlife Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to regulation change for sport fishing on the Puyallup and Carbon rivers, adopting WAC 232-28-61618.

We, the State Wildlife 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 the harvestable number of wild steelhead for the Puyallup River system will have been caught by January 13. Any further harvest must be limited to hatchery fish in order to provide adequate spawning escapement of wild 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 77.12.040 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 December 22, 1987.  
 By Jack S. Wayland  
 Director

NEW SECTION

*WAC 232-28-61618 REGULATION CHANGE FOR SPORT FISHING ON THE PUYALLUP AND CARBON RIVERS. Notwithstanding the provisions of WAC 232-28-616 on the Puyallup River and Carbon River, only steelhead with missing adipose or ventral fins may be possessed between the dates of January 13 and March 31, 1988, inclusive. There must be a healed scar in the location of the missing fin. All other provisions of WAC 232-28-616 relating to the Puyallup River and Carbon River remain in effect.*

**WSR 88-03-024**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed January 12, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning new sections WAC 230-02-280, 230-02-290, 230-08-017, 230-20-615, 230-20-699, 230-30-072, 230-30-300; amendatory sections WAC 230-08-010, 230-08-025, 230-08-130, 230-20-064, 230-20-325, 230-20-605, 230-20-610, 230-20-630, 230-30-015, 230-30-018; and repealing WAC 230-04-197 and 230-08-170;

that the agency will at 10:00 a.m., Friday, March 11, 1988, in the Mark 205 Inn, Vancouver, 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 9.46.070 (8), (11) and (14).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 11, 1988.

Dated: January 12, 1988  
 By: Frank L. Miller  
 Deputy Director

### STATEMENT OF PURPOSE

Title: WAC 230-02-280 Identification and inspection services stamps; 230-02-290 Records entry labels; 230-04-197 Permits for raffles on separate premises; 230-08-010 Monthly records; 230-08-017 Control and use of identification and inspection services stamps; 230-08-025 Accounting records to be maintained by distributors and manufacturers; 230-08-130 Quarterly activity reports by operators of punchboards and pull tabs; 230-08-170 Punchboards and pull tab retention; 230-20-064 Maximum receipts, prizes, and expenses for bingo games—Net income required; 230-20-325 Manner of conducting a raffle; 230-20-605 Types of amusement games authorized; 230-20-610 Amusement games—Factors affecting skill to be readily visible to player; 230-20-615 Amusement games—Material degree of skill required—Standards; 230-20-630 Amusement games—Fees, rules, prizes, and variation in object to be posted—Fees to be paid in cash or script—Prizes not to differ from those posted; 230-20-699 Special amusement game license—Self dispensing amusement games—Test at limited locations; 230-30-015 (~~Identification and inspection services stamp and~~) Substitute flares; 230-30-018 (~~Sellers of punchboards, pull tabs, or pull tab dispensing devices to put commission stamp numbers on invoices~~) Transfer of any gambling devices requiring identification and inspection services stamps to be affixed; 230-30-072 Punchboard and pull tab inventory and retention requirements; and 230-30-300 Recall of defective punchboards, pull tabs or pull tab dispensing devices.

Description of Purpose: These rules implement a new inventory control program; update amusement game rules; allow for 1 year extension of bingo license limitation; and simplify raffle operations.

Statutory Authority: RCW 9.46.070 (8), (11) and (14).

Summary of Proposed Rules and Reasons Supporting Action: WAC 230-02-280 defines identification and inspection service stamps; 230-02-290 defines records entry labels; 230-04-197 repeals separate premises restriction on raffles; 230-08-010 implements inventory control program to allow for better audit trail; 230-08-017 utilizes new stamps and implements bar code inventory program to create better audit trail; 230-08-025 implements inventory control program at manufacturer and distributor level; 230-08-130 implements inventory control program at operator level; 230-08-170 is repealed and has been moved to the punchboard and pull tab section; 230-20-064 extends license limitation of 3.5 million; 230-20-325 allows raffles to be conducted at different premises with one license; 230-20-605 updates list of authorized amusement games; 230-20-610 cleans up the current rule by removing redundant language; 230-20-615 sets forth a standard to determine if the game(s) contain the required amount of skill; 230-20-630 clarifies existing rule and adds some additional disclosure requirements to inform public and agents of the

commission; 230-20-699 authorizes a 12 month test of self dispensing amusement games; 230-30-015 is necessary to implement the inventory control program and bar code program; 230-30-018 is necessary to implement the inventory control program and bar code program; 230-30-072 replaces WAC 230-08-170 and implements new inventory control program; and 230-30-300 authorizes formal recall procedures for defective products. Sets forth notice requirements for all affected parties.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Ronald O. Bailey, Director, and Frank L. Miller, Deputy Director, Jefferson Building, 1110 South Jefferson, Olympia, WA 98504, 234-1075 scan, 753-1075 comm.

Proponents and Opponents: Gambling Commission staff proposes this rule amendment and new rule.

Agency Comments: The agency believes the proposed amendment and new rule are self-explanatory and need no further comment.

This amendment and new rule were not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined there may be an economic impact upon a certain number of licensees administered by this agency by the adoption of this amendment or new rule.

### NEW SECTION

WAC 230-02-280 IDENTIFICATION AND INSPECTION SERVICES STAMPS. Identification and inspection services stamps are printed under the control of the commission for purposes of identifying and controlling gambling devices within the state of Washington. Each stamp is pre-glued and imprinted with the seal of the commission and an unique number or combination of alpha characters and numbers. All identification and inspection stamps issued after March 1, 1988, shall also be imprinted with an electronically identifiable bar code equivalent of the identifying numbering scheme and have a set of records entry labels attached.

### NEW SECTION

WAC 230-02-290 RECORDS ENTRY LABELS. Record entry labels are a set of removable, pre-glued labels, attached to identification and inspection services stamps and imprinted with the same unique number or combination of alpha characters and numbers as the stamp, plus an electronically identifiable bar code equivalent of the identification number. These labels are attached to a punchboard or pull tab series flare by the manufacturer of the punchboard or pull tab at the same time the identification and inspection services stamp is attached. These labels may only be removed and used as record entries as prescribed by other rules of this section.

### REPEALER

WAC 230-04-197 PERMITS FOR RAFFLES ON SEPARATE PREMISES

### AMENDATORY SECTION (Amending Order 171, filed 8/18/87)

WAC 230-08-010 MONTHLY RECORDS. Every person or organization licensed to operate any authorized gambling activity shall keep and maintain permanent monthly records of all of the activities of the licensee related to each licensed activity. Each of these records shall be maintained by the licensee for a period of not less than three years from the end of the fiscal year for which the record is kept unless the licensee is released by the commission from this requirement as to any particular record or records. These records must include all financial transactions and contain enough detail to determine compliance with the requirements of WAC 230-04-050 and 230-04-080. The

record for each licensed activity shall be a separate unit, covering all transactions occurring during a calendar month. These records shall be complete in every detail and available for audit or inspection by agents of the commission or other law enforcement personnel no later than thirty days following the end of each month. Each record shall include, but not necessarily be limited to, all details of the following:

(1) The gross gambling receipts from the conduct of each of the activities licensed.

(2) Full details on all expenses related to each of the activities licensed.

(3) The total cost of all prizes paid out for each of the activities licensed.

(4) With respect to those organizations licensed as qualified bona fide charitable or bona fide nonprofit organizations, except agricultural fairs, records shall clearly show in detail how those proceeds from each licensed activity obtained by the licensee were used or disbursed by that licensee.

(5) With respect to commercial stimulant licensees, records shall include at least the following details:

(a) Gross sales of food and drink for consumption on their licensed premises;

(b) Gross sales of food and drink for consumption off the licensed premises; and

(c) Gross sales from all other business activities occurring on the licensed premises.

(6) In addition to any other requirement set forth in these rules, licensees for the operation of punchboards and pull tabs shall be required to prepare a detailed monthly record for punchboards and pull tab series removed from play during that month. This detailed monthly record shall be recorded in a standard format prescribed by the commission and shall disclose for each set at minimum the following information:

(a) The name of the punchboard or pull tab series;

(b) The Washington state identification and inspection services stamp number issued by the commission and placed thereon(;;): Provided, that when records entry labels are attached to the punchboard or pull tab series flare, a label shall be attached to the record in lieu of a written entry;

(c) The series number of each pull tab series or punchboard;

(d) The date placed out for play;

(e) The date removed from play;

(f) The total number of tabs in each pull tab series or the total number of punches in each punchboard;

(g) The number of pull tabs or punches remaining after removal from play;

(h) The number of pull tabs or punches played from the pull tab series or punchboard;

(i) The cost to the players to purchase one pull tab or one punch;

(j) The gross gambling receipts as defined in WAC 230-02-110;

(k) The total prizes paid, including both cash and merchandise (calculated by the cost to the licensee) prizes;

(l) The net gambling receipts (gross gambling receipts less total prizes paid);

(m) The cash over or short determined by (1) subtracting actual cash from net gambling receipts for punchboards and pull tabs which pay cash prizes, and (2) subtracting actual cash from gross receipts for punchboards and pull tabs which award merchandise prizes; and

(n) The actual cash received from the operation of each pull tab series or punchboard; and,

In the alternative, with written commission approval, licensees operating pull tabs may record (m) and (n) in total on a daily, weekly, or monthly basis.

(7) Copies of all additional financial data which support tax reports to any and all governmental agencies.

**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.

#### NEW SECTION

WAC 230-08-017 CONTROL AND USE OF IDENTIFICATION AND INSPECTION SERVICES STAMPS. No punchboard, series of pull tabs, or device for dispensing pull tabs shall be sold or purchased for use within this state until an identification and inspection services stamp obtained from the commission has been permanently and conspicuously affixed thereto. Once attached, such stamp

shall not be removed, disfigured, or otherwise tampered with by any person. These stamps shall be attached and controlled in the following manner:

(1) Identification stamps shall be sold only to licensed manufacturers. The fee charged for each stamp shall be twenty-five cents. After March 1, 1988, all identification and inspection stamps issued to manufacturers shall have a set of records entry labels attached which also must be affixed to all punchboards and pull tabs series sold in Washington state after May 1, 1988. Manufacturers who have identification and inspection services stamps on hand after May 1, 1988, which do not have records entry labels attached, will be afforded the opportunity to exchange these stamps, one for one and without cost by submitting them to the commission's Olympia headquarters office prior to July 1, 1988;

(2) Identification stamps shall only be affixed to punchboards, pull tab series flares, and devices for dispensing pull tabs in such a manner as to assure reasonable inspection without obstruction. Stamps shall be affixed only by licensed manufacturers in the following manner:

(a) On the reverse side of all punchboards in an area that will not obstruct removal of punches. The records entry labels shall also be affixed to the reverse side of punchboards;

(b) On the face of the flare for all pull tab series, in an area that will not obstruct prizes available or any other information required by the rules of the commission. The records entry labels shall be affixed to the reverse side of pull tab series flares; and

(c) On the outside of the main body of pull tab dispensing devices, in an area that is not normally removed and replaced, and in a manner that will not obstruct the view of the pull tabs available for play. The records entry labels shall not be affixed to dispensing devices and may be discarded.

(3) Identification stamps shall not be attached to punchboards, pull tab series flares, or pull tab dispensing devices that do not comply with rules of the commission. Stamps shall not be affixed to any device prior to approval of the device by the commission.

#### AMENDATORY SECTION (Amending Order 132, filed 4/21/83)

WAC 230-08-025 ACCOUNTING RECORDS TO BE MAINTAINED BY DISTRIBUTORS AND MANUFACTURERS. Every licensed distributor and manufacturer shall keep and maintain a complete set of records which include all details of all activities of the licensee related to the conduct of the licensed activity. These records shall be recorded using the double entry accounting system and maintained in accordance with generally accepted accounting principles. This system shall also be on the same basis as the licensee's federal income tax return(= and shall include but not necessarily be limited to the following records by month(=)). All records shall be maintained for a period of not less than three years following the end of the licensee's fiscal year. These records shall be updated at least once a month and provide a monthly balance for each account. The minimum record system shall include the following:

{I(=)} Sales invoices - every licensee shall use, for the purpose of recording sales of any and all types of goods and services, a general sales invoice which meets the following criteria and sets out the following information on the original and each copy:

{a(=)} ((P)) Each invoice must be prenumbered at the time of purchase. The numbering must be consecutive(=), using ((a number)) not less than four digits;

{b(=)} The date of sale. For distributors only(=): If the date of delivery is different, then ((also)) the delivery date must also be entered;

{c(=)} The customer's name and an adequate business address;

{d(=)} A full description of each item sold, including ((any state identification stamp number)) the identification and inspection services stamp number: Provided, that when records entry labels are attached to a punchboard or a pull tab series flare, a distributor shall also attach a records entry label on the copy of the invoice provided to the operator. If there is not enough space on the face of the invoice, labels may be attached to the back of the invoice or on a separate sheet of paper. If a separate sheet is used, a note must be made on the invoice and the sheet stapled to the invoice;

{e(=)} The quantity and sales price of each individual item including individual items of merchandise to be used as prizes on punchboards and pull tabs;

{f(=)} The gross amount of each sale to each customer;

{g(=)} The sales invoice shall be prepared in at least three parts and distributed and maintained as follows:

((+))i) One shall be issued to the customer(=);

((2))ii One shall be retained in an invoice file by customer name((-)); and

((3))iii One shall be retained in an invoice file by invoice number or in an alternative manner that accounts for each invoice numerically. This provision may be waived if the licensee receives written commission approval.

(h((-))) Credit memos for returned items shall be prepared in the same detail as items a through g above; Provided that a records entry label shall not be attached to credit memos.

(2((-))) Sales journal – the sales journal shall contain at least, but not be limited to, the following by month:

(a((-))) The date of the sale;

(b((-))) The invoice number of the sale;

(c((-))) The customer name or person remitting a payment;

(d((-))) Sales shall be categorized at least by the following:

((+))i) Punchboards that pay out cash prizes;

((2))ii) Punchboards that pay out merchandise prizes;

((3))iii) Pull tabs that pay out cash prizes;

((4))iv) Pull tabs that pay out merchandise prizes;

((5))v) Pull tab dispensing devices;

((6))vi) Merchandise: Only that which is used as a prize on a punchboard or series of pull tabs.

((7))vii) Other types of sales including but not limited to, equipment leases, equipment sales, and bingo supplies.

(e((-))) Total amount of the invoice;

(3((-))) Cash disbursements book (check register) – this record shall include a recording of all checks issued by the licensee, cash payments made by the licensee, or payments made by any other means. All expenses by the licensee, both respecting its expenditures relating to gambling and nongambling activities, shall be documented by invoices or other appropriate supporting documents. ((and)) Entries to this record shall contain at least, but not limited to, the following information by month:

(a((-))) The date the check was issued or payment made;

(b((-))) The number of the check issued;

(c((-))) The name of the payee; and

(d((-))) ((Expenses)) Each disbursement shall be categorized by type of expense.

((All expenses by the licensee, both respecting its expenditures relating to gambling and nongambling activities, shall be documented by invoices or other appropriate supporting documents.))

(4((-))) Cash receipts – all cash receipts shall be recorded in an original book of entry whether it be a sales journal, a check register, or a separate cash receipts journal, and at a minimum shall include a recording of not only cash sales, but also cash received from all sources, and shall contain at least, but not limited to, the following by month:

(a((-))) The date the payment was received;

(b((-))) The name of the person remitting the payment;

(c((-))) The amount of payment received;

(5((-))) General ledger – each licensee whose gambling related sales exceed \$500,000 per year, shall have a general ledger which shall contain, in addition to all other accounts by month, a separate sales account for each type of sale.

(6((-))) Bank reconciliation – a bank reconciliation shall be performed each month. In addition, all undeposited funds at year end shall be reconciled in an account titled cash on hand.

(7((-))) Copies of all financial data which support tax reports to any and all governmental agencies.

(8((-))) Manufacturer shall maintain records that provide an accountability trail for all identification and inspection stamps purchased. These records shall include an inventory log of all unused and damaged stamps and other records that includes the following minimum items:

(a) The name of the purchaser;

(b) The date of the sale; and

(c) The invoice number recording the sale.

(9) An alternative format may be used for sections (1), (2), and (3), above upon advance written approval from the commission.

~~((Each of these records shall be maintained for a period of not less than three years from the end of the licensee's fiscal year.))~~

**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 161, filed 9/15/86)

WAC 230-08-130 QUARTERLY ACTIVITY REPORTS BY OPERATORS OF PUNCHBOARDS AND PULL TABS. Each licensee for the operation of punchboards and pull tabs shall submit an activity report to the commission concerning the operation of the licensed activity and other matters set forth below during each of the following periods of the year:

January 1st through March 31st

April 1st through June 30th

July 1st through September 30th

October 1st through December 31st

If the licensee does not renew his license, then he shall file a report for the period between the previous report filed and the expiration date of his license.

The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or post-marked no later than 30 days following the end of the period for which it is made.

The report shall be signed by the highest ranking executive officer or his designee. If the report is prepared by someone other than the licensee or his employee then the preparer shall also sign the report.

The report shall be completed in accordance with the related instructions furnished with the report. The report shall include the following:

(1) Gross sales, other than licensed gambling activities during the reporting period;

(2) That portion of the gross sales that relates solely to the sale of food and drink for consumption on the premises;

(3) The gross gambling receipts from punchboards and the gross receipts from pull tabs;

(4) The total amount of cash prizes paid out and the cost to the licensee of all merchandise prizes paid out, for punchboards and for pull tabs;

(5) Full details of all expenses related to the purchase and operation of punchboards and pull tabs; and

(6) Total net gambling income.

(7) For the calendar quarter ending September 30, 1988, the number of punchboards and the number of pull tab series that were either in play or in inventory awaiting play as of the end of business on June 30, 1988;

(8) For all calendar quarters ending after June 30, 1988, the number of punchboards and the number of pull tab series removed from play during the period; and

(9) For all calendar quarters ending after June 30, 1988, the number of punchboards and the number of pull tab series purchased during the period less all un-played devices returned for credit during the period.

#### REPEALER

WAC 230-08-170 PUNCHBOARD AND PULL TAB RETENTION

#### AMENDATORY SECTION (Amending Order 151 [168], filed 6/14/85 [6/16/87])

WAC 230-20-064 MAXIMUM RECEIPTS, PRIZES, AND EXPENSES FOR BINGO GAMES-NET INCOME REQUIRED. Bingo is to be conducted as a social pastime and for the raising of funds to support the purpose(s) of the organization only. Bona fide charitable or nonprofit organizations licensed to operate bingo must comply with the following limitations:

(1) Gross receipts from the sale of bingo cards shall not exceed the limits by class of license for the license year as set out in WAC 230-04-201 and Table 1. below. Any organization not currently licensed to conduct bingo at any class and applying for a Class "F" or above license shall submit with its license application a pro forma plan of operation including a market study with: Planned attendance; prizes; prize payout schedules; and net income predictions; and any other information requested by the commission.

(2) To prevent the payment of prizes in such amounts that would significantly reduce net income, prize payouts as percentages of gross receipts shall not exceed the percentages listed in Table 1. by class of license. Any licensee who exceeds the maximum calendar quarter prize payout limit for its class of license by more than two percentage points (2.0%) in any month and/or exceeds its calendar quarter limits during

any quarter must report to the commission, no later than 15 days following the end of the month or quarter.

(3) To insure that licensees meet the intent of RCW 9.46.010 and to prevent the payment of excessive expenses, adjusted net income as a percentage of gross receipts shall not be less than the percentage listed in Table 1. by class of license for any calendar year. Any licensee who reports net income more than two percentage points (2.0%) below the minimum calendar year requirement for its class during any quarter must report to the commission additional information as required.

(4) All administrative procedures, policies, and definitions required to administer this section shall be approved by the commission, and furnished to all affected licensees. Prize payout limits, net income minimum requirements, and administrative procedures will be reviewed annually to measure the effect of this section on the licensed organizations. The annual review shall be held at the March meeting (~~which by law must be held in Olympia~~) and/or periodically by request of the commission with proper and timely notification to the staff.

(5) During the Commission's study on MAXIMUM LIMITATIONS on bingo income, an organization may exceed the class K gross receipts limitation if the organization has been in compliance for the last 12 months with all class K requirements set forth in Table 1. This authorization will only be issued to those organizations who voluntarily agree to donate 14% of all gross income generated in excess of \$3,500,000 to a charitable organization of their choice. Provided: The donation may not be given to an auxiliary or to another bingo licensee class E and above. Provided Further: All donations made after the effective date of this amendment may be counted as a credit towards the 14% requirement. This section will terminate on December 31, 1988.

Table 1.

**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 153, filed 8/12/85)

WAC 230-20-325 MANNER OF CONDUCTING A RAFFLE. All raffles shall be conducted by selling individual prenumbered tickets for not more than five dollars and awarding prizes by selecting winners by a random drawing from among all tickets sold. The following operating procedures apply:

(1) All tickets for use in any raffle shall be consecutively numbered and each ticket shall be accounted for separately in accordance with WAC 230-08-070. Raffle tickets sold to the general public shall have a stub or other detachable section bearing a duplicate number corresponding to the number on the ticket.

(2) All prizes (~~awarded~~) available, whether ((m)) cash or merchandise, and all rules by which such prizes may be won, including all costs to a participant, shall be disclosed to each participant. This information shall be printed upon each ticket sold, or shall be otherwise provided in writing to each purchaser at the time of sale and shall also include, but not be limited to, date and time of drawing, location of drawing, and name of organization conducting raffle.

(3) No person shall be required to pay, directly or indirectly, more than \$5.00 in order to enter any raffle. Each raffle ticket must be sold for the same price as every other raffle ticket being used for that particular raffle. No free tickets, or any opportunity to participate in the drawing of any raffle, shall be awarded or given to a person as a prize or reward for selling raffle tickets or for purchasing a certain number of raffle tickets. No person shall be required to obtain more than one ticket or to pay for anything other than the ticket, in order to enter the raffle: Provided, That licensed raffles conducted among members of the organization only, may be conducted using alternative sales methods if specifically authorized by the commission. This authority will be issued on an individual basis and will require a detailed written request.

(4) If an entrant is required to be present at a raffle drawing in order to be eligible for the prize drawing, then a statement setting forth this condition shall be set forth conspicuously on each raffle ticket and on all promotional material concerning the raffle. When the participant is not required to be present at the drawing the ticket stub or other detachable section(s) of the ticket shall contain the purchaser's name, complete address, and telephone number, and shall be maintained for a period of not less than three years from the end of the fiscal year in which the raffle was completed.

(5) In conducting a drawing in connection with any raffle, each ticket seller shall return to the licensee the stubs or other detachable section of all tickets sold. The licensee shall then place each stub or other detachable section of each ticket sold into a receptacle out of which the winning tickets are to be drawn. Such receptacle shall be designed so that each ticket placed therein has an equal opportunity with every other ticket to be the one withdrawn.

(6) The raffle license issued by the Commission shall be conspicuously posted and displayed at the location at all times during the occasion when a drawing is being conducted.

[AMENDATORY SECTION (Amending Order 149, filed 4/15/85)]

WAC 230-20-605 TYPES OF AMUSEMENT GAMES AUTHORIZED. The commission hereby authorizes the following amusement games whether coin operated or not, to be operated by persons possessing a special location amusement games license, or bona fide charitable or nonprofit organizations possessing a license issued by the gambling commission or when conducted as authorized by RCW 9.46.03((0))2 ((0)) (1) at an authorized location((:)). For clarification, games will be classified as either "non dispensing" (operator awards prize or redeems tickets or tokens for prize) or "self dispensing" (game awards merchandise prize).

(1) Non Dispensing Amusement Games.

((+))a) Fish pond (duck pond). The player "catches" a fish or other object floating in a pond of water by using a pole, hand, net or string. All fish or objects are marked on the bottom indicating the size of prize the player wins. The player is awarded a prize every time and the player must be allowed to continue playing until a prize is won.

When played at school carnivals, the game may be played without the pond of water and the operator of the game may assist the player by attaching a prize to the pole, hand, net or string.

((2))b) Hoop or ring toss. The player must toss a hoop(s) or ring(s) over a target which may consist of bottles, pegs, blocks, or prizes. The operator must specifically advise the player as to the degree that the hoop(s) or ring(s) must go over the target. All hoops of the same color used at an individual stand must be the same size. All targets used at an individual booth must be the same size or the operator must advise the player by posting signs or using color codes denoting the different sizes.

((3))c) Dart games. The target area for all dart games must be of a material capable of being penetrated and retaining a metal tip dart. The target area will be in the rear of the stand and will be at least three feet but not more than fifteen feet from the foul line. Target must be stationary at all times.

((a))i) Balloon (poparoo) (balloon smash). The targets are inflated balloons. The player throws one or more darts to burst a predetermined number of balloons. If the predetermined number of balloons are burst by the dart(s), the player receives the prize indicated.

((b))ii) Dart throw. The targets are various sizes and shapes located on the target area. The player must throw dart(s) individually at the target. The player must hit and the dart must stick in a predetermined target to win the prize as designated.

((e))iii) Tic tac toe dart. The target is a tic tac toe board located in the target area. The player throws darts at the target and wins a designated prize when the thrown darts line up in a row in the target. The darts may line up vertically, horizontally or diagonally to win.

((d))iv) Add um up darts. The target consists of numbered squares located in the target area. Prizes are awarded based on the total score obtained by the player by throwing and sticking the darts in the numbered squares. All darts stuck on lines will receive a rethrow. The player has the right to add up the score of the darts thrown.

((\*)d) Ball tosses. In all ball toss games, the balls used at a specific stand must be of the same weight and size. Targets must be of the same weight and size or the operator must color code the targets and advise the player of the difference in targets by posting a sign or providing a duplicate of the target showing the limitations or restrictions readily visible to the player.

((x))i) Milk bottle toss. The player tosses or throws ball(s) at simulated milk bottles. The player wins by either tipping over or knocking bottles off the raised platform as designated by the operator. The bottles may be constructed of wood, metal or plastic or a combination of the above three. Operators may vary the number of bottles and balls used in each game. No floating or loose weights in bottles shall be allowed. The weight of individual bottles shall not exceed seven and one-half pounds.

((b)ii) Milk can (Mexican hat, cone). The player tosses a ball(s) into the opening of a milk can or a fiber glassed Mexican hat turned upside down or through a cone to win.

((e)iii) Football toss (tire toss). The player tosses or throws a football(s) through a stationary tire or hoop to win.

((d)iv) Basketball toss/throw. The player tosses or throws a basketball(s) through a basketball type hoop to win.

((e)v) Bushel baskets. The player tosses a ball(s) into a bushel type basket mounted on a stationary backdrop at a fixed angle. The ball(s) must stay in the basket to win. All rim shots will be allowed except the operator may designate the top 6 inches of the basket rim by color and disallow ball(s) striking this area as winning tosses.

((f)vi) Cat-ball-toss (star/diamond toss). The player tosses a ball(s) into a simulated cat's mouth or a round, diamond or star shaped hole to win.

((g)vii) Ping pong toss. The player tosses ping pong balls into dishes, saucers, cups or ashtrays floating in water. A predetermined number of balls must remain in the dishes, saucers, cups or ashtrays for the player to win. The dishes, saucers, cups or ashtrays must have water covering the bottom of the surface which is facing up.

((h)viii) Fish bowl game. The player tosses ping pong balls into a water-filled fish bowl to win.

((i)ix) Volley ball toss (soccer ball). The player tosses a volley or soccer ball(s) into a keg type container mounted on a stationary backdrop at a fixed angle. The ball(s) must stay in the keg to win a prize. Rim shots are authorized as stated in paragraph (e) above for bushel baskets.

((j)x) Goblet ball (whiffle ball). The player tosses a whiffle ball(s) into a target area of glass or plastic goblets. Located in the target area are colored goblets which determine the type of prize the player wins. At least 33 percent of the goblets in the target area must be winners. The ball(s) must stay in the goblet to win a prize.

((k)xi) Break the plate/bottle. The player tosses or throws a ball(s) at a plate, phonograph record or bottle. The type of prize won is determined by the number of targets broken by the player.

((h)xii) Punk rack. The targets for this game are rows of dolls or cats on a ledge at the rear of the stand. The dolls or cats must be filled with sawdust, styrofoam, cotton or other like material which provides a firm base for the ball to strike. The hair protruding from the side of the dolls or cats shall not exceed three inches. The prize is determined by how many dolls or cats the player knocks over or off the ledge as posted by the operator.

((m)xiii) Teeth game. The target consists of a large face with wooden teeth. The prize is determined by how many teeth the player knocks down by throwing a ball(s).

((n)xiv) Toilet game (doniker). The player tosses or throws a ball or other object through a toilet seat, which is located at the rear of the stand, to win.

((o)xv) (Coke roll). The player rolls a ball(s) down an alley with the object of knocking over two coke bottles standing at the end of the alley. The player must tip over both bottles to win. Bottles shall be placed on predetermined spots painted on the surface of the alley.

((p)xvi) Roll-down. The player rolls ball(s) down an alley with the object of putting the ball(s) in numbered slots at the end of the alley. The scores represented by the balls in each numbered slot are added up at the conclusion of the game. Scores above or below a predetermined score win. The alley surface shall at all times be smooth and free from defects.

((q)xvii) Fascination (I got it). A group game which involves competition among the players. The target area consists of twenty-five holes and the player tosses or rolls a ball into one of the holes. The object of the game is to get five balls in a row either vertically, horizontally or diagonally. The first player to accomplish this is the winner. Prize size is determined by the number of players participating in each game.

((r)xviii) Pokereno. The target area consists of twenty-five squares with each square given the value of a poker card. The player rolls or tosses five balls to land in the squares. The operator has predetermined winning poker hands and the player wins when balls land in the squares that duplicate the operators selection.

((s)xiv) Batter-up. The player uses a whiffle ball bat to swing and strike whiffle balls which are pitched at medium speed from a pitching machine. The player wins when he "hits" a ball into the "home run" shelf. The "home run" shelf is located at the back of the batting cage approximately fifteen feet from the player.

((t)xi) Sky bowling. Two bowling pins are set on predetermined painted spots on a shelf. A ball is attached to a chain suspended from a

stationary support at least 6 inches to the right or left of the bowling pins. The object is to swing the ball, miss the pins with the ball as it goes forward and knock the pins over as the ball returns.

((xxii) Clown rolldown. A ball is tossed through the open mouth of a moving clown or animal head. The ball then rolls down a chute to numbered slots to the rear of the clown or animal head. The scores represented by the balls in each numbered slot are added up at the conclusion of the game. Prizes are awarded on the points achieved.

((xxiii) Skee ball. The player rolls a ball(s) up the mechanical bowling alley into targets. A computer adds up the scores and predetermined scores win.

((xiv) Speedball radar game. Player gets four balls. Player throws three balls through radar to establish speeds and to estimate at what speed fourth ball will pass through radar. Player wins prize if he accurately estimates speed of the fourth ball. Radar must be mounted and stationary.

((5)e) Shooting games. These games are conducted by the player using a weapon of some type to shoot at a target in the rear of the stand. The safety requirement of the local city or county ordinances must be observed by the operator and player. The target may be stationary or mobile.

((a)i) Short range (shooting gallery)(;-) includes where ((+ F))the player is given four rounds to shoot at a spot target 1/4 inches or less in diameter. The player wins when the spot target is completely shot out(;-), or ((+ F))the player is given five rounds to shoot one round each at five triangular, round or square targets, 1/2 square inch. The prize is determined by the number of targets struck by the player(;- F), or the player is given five rounds to shoot one round each at five triangular, round or square targets, 1/2 square inch. Within each target is a bull's eye and the player must hit the bull's eye without touching outer surface of the target. The prize won is determined by the number of bull's eyes correctly hit.

((b)ii) Shoot-out-the-star (machine gun). The player, using an automatic air pellet gun, is given 100 pellets to shoot at a star shaped target. The player must shoot out all of the target to win. The star cannot be more than one and one quarter inch from point to point.

((c)iii) Water racer. This group game involves competition with the player winning a prize based on the number of players competing. The player, using a water pistol, shoots the water into a target. The water striking the target causes a balloon to inflate or advances an object to ring a bell. The player bursting the balloon or ringing the bell first is the winner.

((d)iv) Rapid fire. This group game involves competition among players similar to the water racer described in (c) above. The player uses an electronic pistol to shoot at a target. Hits on the target give the player a score and the first player to reach a predetermined score is the winner.

((e)v) Cork gallery. The player uses a cork gun or similar device to propel objects which could include, but not be limited to, corks, suction cup darts, or styrofoam balls, to shoot at targets located on a shelf or bull's-eye type target. The player must hit the bull's-eye or knock the target over or off the shelf to win a prize. The prize is determined by the target knocked over or off the shelf or by the number of targets knocked over or off the shelf, or by the player accomplishing other tasks as stated in the posted rules. When suction cup darts or other darts are used and fail to stay on or in the target, the player will receive the play over. The base of each target shall be uniform front and rear.

((f)vi) Boomball. The player uses a cannon with compressed air to propel balls into a target area. The targets have varied point value and if the ball remains in the target, a computer adds up the scores. Prizes are awarded based on the points achieved.

((6)f) Coin pitchers.

((a)i) Spot pitch (lucky strike). The player pitches a coin at colored spots located on a table in the center of the stand. The coin must touch or stay inside of a spot to win a prize.

((b)ii) Plate pitch. The player pitches a coin onto a glass plate to win a prize as designated.

((e)iii) Glass pitch (bowl). The player pitches a coin into or onto dishes, glasses, etc. If the coin remains in one of the top "target" glass items then the player wins that item.

((7)g) ((Coin-operated games: (a)) Miscellaneous games (i) Skill chute (bulldozer) (penny fall). The player inserts a coin or token into a chute aiming the coin or token so that it will fall in front of a continuous sweeper, (bulldozer). If the coin or token is aimed correctly, the sweeper (bulldozer) will push additional tokens or prizes into a hole or chute which sends them to the player. Tokens are exchanged for prizes.

If there is a hidden ledge, tip or similar obstruction which inhibits the passage of tokens or prizes into the hole or chute which sends them to the player, then the operator must post a sign to advise the players.

~~((b) Skce ball. The player rolls a ball(s) up the mechanical bowling alley into targets. A computer adds up the scores and predetermined scores win.~~

~~(c) Diggers. The player turns a crank on a mechanical crane to pick up a prize. If the player picks up a prize then the player wins that prize. There can be no stops on the digger or, if there are stops, all prizes must be the same. All prizes must be capable of being picked up by the crane.~~

~~((b) Miscellaneous games. (a)) (ii) Tip-em-up bottle. The player is provided with a pole and a string which has a hoop or ring attached at the end. The player, using the pole with ring, must raise a bottle lying on its side to an upright position to win.~~

~~((b)iii) Hi-striker. The player, using a wooden maul, must strike a lever target which causes a metal weight to rise on a guide line or track and ring a bell. The player must ring the bell a predetermined number of times to win a prize.~~

~~((c)iv) Rope ladder. Player must climb up a rope ladder, which is anchored at both ends by a swivel and ring a bell or buzzer to win a prize.~~

~~((d)y) Whac-a-mole. A group game which has a target surface with 5 holes - animated "moles" pop up and down at random. Whac (hit) as many moles as possible with a mallet. First player to hit a predetermined number of moles wins.~~

~~((e)vi) Dip bowling game. Player rolls a bowling type ball over hump in track. If ball stays on the back side of hump, the player wins.~~

~~((f) Speedball radar game. Player gets four balls. Player throws three balls through radar to establish speeds and to estimate at what speed fourth ball will pass through radar. Player wins prize if he accurately estimates speed of the fourth ball. Radar must be mounted and stationary.))~~

~~((g)vii) Horse race derby. A group game. Players advance their horse by shooting or rolling a ball in target area. The faster and more skillful one shoots or rolls his ball, the faster his horse will run. First horse to finish line wins.~~

~~((h)viii) Shuffleboard. Player pushes a puck(s) down a shuffleboard alley to knock over poly pins at end of alley. Player wins by knocking down all the pins.~~

~~((i)ix) Bean bag. The player tosses or throws a bean bag or a simulated bean bag at cans, bottles or other objects on a raised platform. The player wins a prize when he either knocks the object(s) off the raised platform or tips the targets over.~~

~~((j)x) Soccer kick. The player kicks a soccer ball(s) through a hole(s) in the target area to win.~~

~~(xi) Frog game. Plastic frog or similar object sets on a small end of teeter totter. The opposite end of the teeter totter is struck with a mallet causing the frog to fly off the teeter totter. If the frog lands in a pail or similar receptacle, the player wins a prize.~~

~~(xii) Cover the spot. The object of the game is for a player to drop 5 circular discs onto a circular spot, completely covering the spot. The diameter of each of the discs utilized to cover the spot will be a minimum of 64% of the diameter of the spot to be covered. The spot to be covered shall be painted or drawn on a permanent, solid material such as metal or wood, or may be a round opened lighted circle. The spot and each disc shall have a uniform diameter.~~

~~(xiii) Pocket Billiards. Using a regulation pocket billiard table, a player must run a consecutive number of balls to win a prize. The number of balls shall be set by the operator.~~

~~((9) Any additional games or modification of the games authorized above, must be submitted to the commission in writing. The director may temporarily approve any additional games or modification of the games subject to final approval by the commission.~~

~~(10) No other games or variations of games may be played.))~~

~~(2) Self Dispensing Amusement Games.~~

~~All self dispensing amusement games must have non-resetable coin in and prize out meters. The following games are authorized;~~

~~(a) Digger. The player turns a crank on a mechanical crane to pick up a prize. If the player picks up a prize then the player wins that prize. There can be no stops on the digger or, if there are stops, all prizes must be the same. All prizes must be capable of being picked up by the crane.~~

~~(b) Electronic crane (claw) games. The player uses a joystick or buttons to maneuver the crane into a position to grab the desired prize. All games must allow at least 15 seconds per play; the crane must be able to reach any prize situated on the upper tier of prizes, must be~~

able to maneuver to the back of the game, and to the right or left to ensure all areas are accessible to the crane, and must be able to pick-up and return to drop slot all prizes contained in game. The crane mechanism must be pre-set by the factory to be able to pick up at least 4 ounces; all prongs must be touching or within a quarter of an inch of touching each other while the crane is in the closed position. In addition, all cranes must be clearly labeled as to maximum weight and dimensions of prizes, and all operating instructions must be in plain view so as to inform players as to how the game is played.

(3) Any additional games or modification of the games authorized above, must be submitted to the Commission staff in writing prior to being used in the state. In addition, a written request shall include proposed rules of play and specifications for each game. A demonstration of the game may be required by the Commission staff to be made in Olympia or at such place as designated by the Commission staff. After review, the Director may temporarily authorize a new or modified game, in writing, subject to final approval by the Commission.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

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

#### AMENDATORY SECTION (Amending Order 55, filed 6/25/76)

WAC 230-20-610 AMUSEMENT GAMES—FACTORS AFFECTING SKILL TO BE READILY VISIBLE TO PLAYERS. No ((person licensed to conduct amusement games shall conduct any amusement games within the state of Washington unless the outcome of said game depends in a material degree upon the skill of the contestant. No person licensed to conduct)) amusement games shall be conducted ((any such game)) within the state of Washington wherein the physical limitations affecting the degree of skill necessary to win a prize are not readily visible to the player ((unless a duplicate thereof which does disclose any physical limitation is displayed at the game)). For example, if any target, basket, hoop, can, or other similar device utilized in an amusement game, has any limiting features not readily visible to the player, a duplicate thereof showing the limitation or restriction shall be placed so as to be readily visible to the players.

#### NEW SECTION

WAC 230-20-615 AMUSEMENT GAMES - MATERIAL DEGREE OF SKILL REQUIRED - STANDARDS. (1) Notwithstanding that a material degree of chance exists in any amusement game, no amusement game shall be conducted within the state of Washington unless the outcome of said game depends to a material degree upon the skill of the contestant. The Director shall determine if a material degree of skill is present and shall submit a report to the Commission for final approval of any game. The standard to be applied shall be the following:

(a) Do contestants' physical and or mental abilities play an important and integral role in determining the outcome of the game; or is the outcome based upon chance alone; and

(b) Would the success rate of the average contestant(s) improve with repeated play or practice.

If the outcome is not based upon chance alone and both (a) and (b) are present, a material degree of skill in the outcome of a game shall be deemed to be present.

#### AMENDATORY SECTION (Amending Order 55, filed 6/25/76)

WAC 230-20-630 AMUSEMENT GAMES—FEES, RULES, PRIZES AND VARIATIONS IN OBJECTS TO BE POSTED—FEES TO BE PAID IN CASH OR SCRIPT—PRIZES NOT TO DIFFER FROM THOSE POSTED. (1) No person ((licensed to conduct amusement games)) shall conduct any amusement game at any location within the state of Washington unless there is posted in a conspicuous place, readily visible to persons playing the game, ((a notification of the fees charged for playing, the rules by which the game is to be played, prizes to be won, and, any variation in the size or weight of objects utilized in the game which is not readily visible to the player.)) a sign(s) made of permanent material, such as wood, poster board, metal or plastic with lettering at least one and one half (1 1/2) inches in height that contains the following information:

(a) Fees charged for playing;

(b) The rules by which the game is to be played;

(c) Prizes to be won;

(d) Any variation in the size or weight of objects utilized in the game which is not readily visible to the player; and

(e) The name of the operator and an assigned concession number.

(2) Licensed amusement game operators shall assign each concession a number and a list of all concessions and their assigned numbers shall be kept available in the show office.

(3) No ~~((person licensed to conduct))~~ amusement games shall be conducted ~~((any such game))~~ wherein the price charged for playing said game is paid other than in cash, or in an amount other than that posted upon the premises of said game. The term "cash" as used herein shall include checks. In addition, the operator may accept as consideration, tokens, script or tickets, but only under the following conditions:

(a) The value of each token, ticket or item of script, as measured by the equivalent amount of cash which a player would have to present in lieu of said token, ticket or script, must be indicated on the face thereof;

(b) Said tokens, tickets or script are not redeemable for cash;

(c) Said tickets or script shall bear the name of the operator or sponsor.

~~((2))~~ (4) No ~~((person licensed to conduct))~~ amusement games shall be conducted ~~((any such game))~~ within the state of Washington wherein the prize to be given to a prospective winner is other than that posted upon the premises of said game: Provided, however, That after an individual player has won two or more prizes, ~~((a licensee))~~ an operator may offer said player the opportunity to exchange said prizes for one or more other prizes, but only if the prize to be received by the player in exchange was available to be won during the play of the game. Any prize system which requires forfeiture of previously won prize(s) in exchange for another play is prohibited. ~~((Persons licensed to conduct))~~ Operators of amusement games may utilize a scheme for distribution of prizes wherein the winners of individual prizes receive tickets, which are subsequently redeemable in combination with other tickets won for a merchandise prize.

#### NEW SECTION

WAC 230-20-699 SPECIAL AMUSEMENT GAME LICENSE - TEST AT LIMITED LOCATIONS. (1) Beginning May 1, 1988, the commission will conduct a twelve month test to determine the feasibility of allowing the operation of electronic crane and other self-dispensing amusement games at selected locations. For the purposes of this test, operators allowed to participate will be divided into two groups:

(a) Those applicants that possess a valid license from the Washington State Liquor Board and prohibit minors on their premises; and

(b) Those locations that are frequented by minors to participate in activities other than the playing of amusement devices, limited to movie theaters and bowling alleys.

(2) This test shall be conducted using the following rules and limitations:

(a) Each participant shall be required to obtain a class B through E "special location amusement game" license as set forth in WAC 230-04-201. For the purposes of this test, the operator of the business where the coin operated amusement game(s) is located and operated shall be licensed. If the amusement game(s) is owned by someone other than the premises operator, that person(s) shall also obtain a license;

(b) Licenses issued under this test will not be subject to the limitations as specified in WAC 230-20-380 and WAC 230-12-230;

(c) The maximum fee to play shall be \$1.00 per game at the locations specified in (1)(a) above, and 25 cents at the locations specified in (1)(b);

(d) The operator(s) cost for each merchandise prize offered shall be equal to or greater than the amount wagered per game;

(e) Prior to being put out for play, all games must be submitted to the Commission staff for testing and for ultimate approval by the Commission. Provided: The Director may approve electronic cranes for use in this test that meet the standards set for in WAC 230-20-605 (2)(b);

(f) All games must be equipped with non-resettable "coin-in meters" to measure the gross revenue of each game;

(g) All games must have non-resettable prize counters to measure the number of prizes awarded;

(h) All games must have affixed a certification and identification stamp issued by the Commission. Each stamp shall cost \$30. Any such game located in an area authorized under 1(a) or (b) which does not

have this stamp attached, or licensed under this rule, shall be prima facie evidence of an unauthorized game being used and shall subject said game to immediate seizure and forfeiture under RCW 9.46.230;

(i) Such games shall not be subject to the prohibition on revenue sharing set forth in WAC 230-12-220; and

(j) All operators shall complete and submit a "special coin operated amusement game test" report, in a format provided by the Commission, on a monthly basis. This report shall be submitted no later than 15 days following the end of each month:

(3) This test shall expire on April 30, 1989, or at a earlier date if the Commission determines that it is in the public interest. At the end of the test period the Commission shall evaluate the test results and determine whether the limited locations contained in WAC 230-20-380 should be expanded for self-dispensing amusement games.

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

#### AMENDATORY SECTION (Amending Order 140, filed 6/15/84)

WAC 230-30-015 ~~((IDENTIFICATION AND INSPECTION SERVICES STAMP AND))~~ SUBSTITUTE FLARES. ~~((1))~~ No punchboard, series of pull tabs, or device for the dispensing of pull tabs shall be sold or purchased within this state or knowingly for use within this state or put out for play unless and until a stamp obtained from the commission containing an identifying number, symbol or combination thereof has been permanently and conspicuously affixed thereto. Once placed, such stamp shall not be removed or tampered with by any person.

With respect to punchboards, the stamp shall be placed so the complete number, together with any symbol appearing thereon, is plainly visible:

With respect to series of pull tabs, the stamps shall be placed upon the dispensing device sold together with, and for that specific series or upon a flare furnished by the manufacturer for that series:

~~((2))~~ A substitute flare may be utilized on punchboards or pull tabs. Substitute flares shall have the Washington state identification and inspection services stamp number assigned to the punchboard or pull tab series permanently recorded in ink on the face of the substitute flare. Such flare shall also show the series number assigned to that ~~((series))~~ device by the manufacturer. If a ~~((different flare than the flare so stamped is used for display when the series of pull tabs is put out for play))~~ substitute flare is used for a pull tab series, then the manufacturer's flare, with the manufacturer's series number and ~~((with))~~ the identification and inspection services stamp obtained from the commission thereon, shall be attached to the back of the substitute flare in such a manner as to be clearly visible to a person playing the device.

The responsibility for ~~((placing))~~ recording the Washington state identification and inspection services stamp number on the substitute flare shall rest with the ~~((licensed operator))~~:

(3) Stamps shall be placed only on items which conform to all requirements of this state's laws and the rules of this commission, and shall not be placed upon items not authorized for use within this state. Stamps shall be placed only upon those pull tab dispensing devices which have been approved by the commission pursuant to WAC 230-30-095:

(4) Identification stamps shall be obtained only from the commission, by a licensed manufacturer only, for twenty-five cents each. Fees obtained from the sale of such stamps shall be used to offset the cost of the stamps and their distribution as well as the punchboard/pull tab special inspection services set forth in WAC 230-30-030. Such stamps shall be placed by the licensed manufacturer only on items which he, himself, sells or furnishes, and shall not be transferred or furnished to any other person unless already placed upon a punchboard, series of pull tabs or pull tab dispensing device:

(5) No person not a licensed manufacturer shall obtain such stamps from any source, nor shall he affix such a stamp to any punchboard, series of pull tabs or pull tab dispensing device, after November 1, 1974.)) manufacturer, distributor, or operator who changes the original flare and attaches the substitute flare.

#### AMENDATORY SECTION (Amending Order 140, filed 6/15/84)

WAC 230-30-018 ~~((SELLERS OF PUNCHBOARDS, PULL TABS, OR PULL TAB DISPENSING DEVICES TO PUT COMMISSION STAMP NUMBERS ON INVOICES))~~ TRANSFER OF ANY GAMBLING DEVICES REQUIRING IDENTIFICATION

**AND INSPECTION SERVICES STAMPS TO BE AFFIXED.** Persons selling or otherwise furnishing punchboards, pull tabs, or pull tab dispensing devices shall ~~((set out the commission stamp number of each item sold on each invoice and other documents used in connection with the sale.~~

Distributors shall account for each punchboard, pull tab series, and mechanical pull tab dispensing device which has a commission identification stamp affixed thereto. All punchboards, pull tab series, and mechanical pull tab dispensing devices returned to the manufacturer shall be listed by the commission identification stamp on an invoice used in connection with the transaction)) account for every such device received and/or transferred. All transfers shall be made by completing a sales invoice or credit memo. Each invoice or credit memo shall set out the identification and inspection services stamp number affixed to each device transferred: Provided, that when records identification labels are attached to a punchboard or pull tab series flare, a records entry stamp shall be attached to the copy of all sales invoices provided to the operator.

Manufacturers shall maintain records that will allow accountability for all identification and inspection services stamps issued to them by the commission, for at least three years after they are affixed to devices and sold. This accountability shall be by indefinite retention of unused or damaged stamps or by records as set out in WAC 230-08-025.

#### NEW SECTION

**WAC 230-30-072 PUNCHBOARD AND PULL TAB INVENTORY AND RETENTION REQUIREMENTS.** Each punchboard and pull tab series purchased or otherwise obtained by an operator shall be controlled and accounted for in the following manner:

(1) Information pertaining to each punchboard or pull tab series purchased shall be recorded in a separate inventory log that is prepared in a format approved by the commission. To start this program, each operator shall count all punchboards and pull tabs in-play or in inventory awaiting play as of the end of business on June 30, 1988, and record all information in the log. The date placed in the "in-play" column for all devices in-play on July 1, 1988, shall be July 1, 1988. Entries shall be made within 72 hours of purchase and prior to placing the device out for public play. This log shall be maintained on the licensed premises at all times and available for inspection by commission agents and/or local law enforcement and tax agencies. The pages of these records shall be consecutively numbered in ascending order beginning with one (1.) and shall be retained for at least three years after the last punchboard or pull tab series on any page is placed out for play. The inventory log shall include the following information:

(a) The Washington state identification and inspection services stamp number assigned to each punchboard or each flare for a pull tab series: Provided, that when record entry labels are attached to the punchboard or pull tab series flare, a label shall be attached to the record in lieu of a written entry;

(b) The name of the game;

(c) The name of the distributor the device was purchased from;

(d) The purchase invoice number;

(e) The date purchased; and

(f) The date placed out for public play or returned to a licensed distributor for credit. If returned to the distributor for any reason, including commission required recall, the number of the invoice or credit memo must also be entered: Provided, that the date entered in this column for all those devices in-play at the close of business on June 30, 1988 shall be July 1, 1988;

(2) Each punchboard or pull tab series which is removed from operation, together with the prize flare, all unplayed tabs, and all winning punches or tabs, shall be retained by the operator for at least four months following the last day of the month in which it was removed from play. The board, unplayed tabs, flare, and all winning punches or tabs shall remain available for inspection on the licensed premises by commission agents and/or local law enforcement and taxing agencies: Provided, that devices may be stored off premise if they are produced for inspection upon demand;

(3) Each punchboard or pull tab series which is not placed out for public play or returned to the distributor or manufacturer from whom it was originally purchased, must be retained on the licensed premises and made available for inspection by commission agents and/or local law enforcement and taxing agencies: Provided, that devices may be stored off premise if they are produced for inspection upon demand;

(4) Each punchboard or pull tab series which is deemed by the operator to be defective or unplayable, for any reason, shall not be returned to the distributor or manufacturer without approval from the

commission. If it is found to be defective after it has been placed out for play, all other rules apply and it must be recorded as required by WAC 230-08-010: Provided, that the retention time required by subsection (2) above may be shortened by the commission upon inspection and written release by a commission agent.

#### NEW SECTION

**WAC 230-30-300 RECALL OF DEFECTIVE PUNCHBOARDS, PULL TABS OR PULL TAB DISPENSING DEVICES.**

(1) Upon a determination that punchboards, pull tabs or pull tab dispensing devices for sale in Washington do not meet Commission standards, the Director may order all defective products and all similarly constructed or printed products be recalled by the manufacturer(s).

(2) If the Director orders such a recall, the manufacturer of the product shall be immediately notified regarding the items to be recalled, reason for the recall, effective date of the recall, and any other specific requirements. The oral notification shall be followed with a written notification. Immediately upon the oral notification, manufacturers shall cease sale of the affected product(s) within the state and initiate actions to ensure complete compliance with the recall. Manufacturers will notify all distributors within 72 hours of the items recalled, effective date of recall, and arrange for the prompt return of the defective items. Distributors, when notified in writing by either the manufacturer(s) or the commission of the recall, shall immediately stop sales and/or delivery of the product.

(3) The Commission shall notify, in writing, each licensed distributor of gambling paraphernalia of the recall, effective dates thereof, the products involved, and of any special instructions if applicable. Within 72 hours, the distributor shall notify the Commission of the name and addresses of operators who have purchased the recalled item during the last 60 days.

(4) When the distributors have provided the names of the operators, the Commission shall then notify, in writing, each affected licensed operator as to the items recalled, effective date and special instructions, if applicable. Operators shall not utilize any defective punchboards, pull tabs or pull tab dispensing devices after receiving written notification from the Commission.

(5) Prior to any reintroduction in the state of any recalled or similar item, the manufacturer must first submit the revised or reworked item to the Commission for review, evaluation and approval. The manufacturer will be notified in writing, of the approval or disapproval and a copy of the approving letter will be sent by the manufacturer to the distributor with the next five shipments of the reworked item.

#### WSR 88-03-025

#### PROPOSED RULES

#### STATE BOARD OF EDUCATION

[Filed January 13, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning professional preparation program development and approval, chapter 180-78 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, January 29, 1988.

The authority under which these rules are proposed is RCW 28A.70.005.

This notice is connected to and continues the matter in Notice No. WSR 87-22-107 filed with the code reviser's office on November 4, 1987.

Dated: January 13, 1988

By: Monica Schmidt  
Secretary

**WSR 88-03-026**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—January 8, 1988]

Below is the revised 1988 meeting schedule for regular meetings to be held by the University of Washington's Department of Aeronautics and Astronautics.

January 22  
 February 19  
 March 11

**WSR 88-03-027**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—January 11, 1988]

Below is the revised meeting schedule for regular meetings to be held by the University of Washington's Department of Speech and Hearing Sciences.

3:30 – Room 038 SWS  
 January 6, 1988  
 February 3, 1988  
 March 2, 1988  
 April 6, 1988  
 May 4, 1988  
 June 1, 1988  
 October 5, 1988  
 November 2, 1988  
 December 7, 1988

**WSR 88-03-028**  
**NOTICE OF PUBLIC MEETINGS**  
**BOARD FOR VOCATIONAL EDUCATION**  
 [Memorandum—January 11, 1988]

The Washington State Board for Vocational Education will meet in a special meeting on January 27 from 9 a.m. to 12 noon at the New Market Vocational Skills Center, 7299 Armstrong Lane, Room B-2, Tumwater, Washington.

People needing special accommodation, please call Patsi Justice at (206) 753-5660.

**WSR 88-03-029**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC WORKS BOARD**  
 [Memorandum—January 14, 1988]

The Public Works Board will hold the next regular meeting beginning at 8:30 a.m. on Tuesday, February 2, 1988, Sea-Tac Red Lion Inn, 18740 Pacific Highway South, Seattle, (206) 246-8600.

The next regular meeting of the Public Works Board will be held on Tuesday, March 1, 1988, beginning at

8:30 a.m., Sea-Tac Red Lion Inn, 18740 Pacific Highway South, Seattle, (206) 246-8600.

**WSR 88-03-030**  
**EMERGENCY RULES**  
**DEPARTMENT OF LICENSING**  
 [Order PFT 88-001—Filed January 14, 1988]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to vehicle registration reciprocity and proration, chapter 308-91 WAC, amending WAC 308-91-010, 308-91-030, 308-91-040, 308-91-050, 308-91-060, 308-91-070, 308-91-080, 308-91-090; adding new sections WAC 308-91-120, 308-91-130, 308-91-140, 308-91-150, 308-91-160, 308-91-170; and repealing WAC 308-91-020, 308-91-100 and 308-91-110.

I, Theresa Anna Aragon, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are necessary to implement chapter 46.87 RCW, as amended by chapter 244, Laws of 1987. The new and amendatory sections of chapter 46.87 RCW became effective January 1, 1988.

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

This rule is promulgated pursuant to chapters 46.87 and 46.85 RCW and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 46.87.010(2) which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 46.87 RCW.

This rule is promulgated under the general rule-making authority of the director of the Department of Licensing as authorized in RCW 46.01.110.

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 January 14, 1988.

By Theresa Anna Aragon  
 Director

**AMENDATORY SECTION** (Amending Order 739 DOL, filed 12/28/83)

**WAC 308-91-010 PRORATION AND RECIPROcity AGREEMENTS.** *The state of Washington is a member of the uniform vehicle registration proration and reciprocity agreement which is hereafter referred to as the "compact" and the international registration plan which is hereafter referred to as the "IRP." ((This)) These agreements provide((s)) for the proportional registration of fleets of commercial or apportioned vehicles operated in two or more jurisdictions that are members*

of the compact and/or the IRP. (~~Other member jurisdictions of the compact are: Alaska, Alberta, Arizona, British Columbia, California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah and Wyoming.~~)

The state of Washington has bilateral agreements, which are similar to the compact, with the states of ~~Oklahoma, Texas and Wisconsin.~~) Member jurisdictions of the compact who are not also members of the IRP are Alaska, British Columbia, Nevada, and New Mexico.

#### AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-030 DEFINITIONS. The definitions set forth below, and in ~~(this section.)~~ chapters 46.04 ~~(and)~~, 46.85, and 46.87 RCW, apply throughout this chapter.

(1) "Backing plate" means a license plate which is designed for displaying validation decals, stickers or tabs issued by jurisdictions of the compact in which the vehicle displaying the plate is proportionally registered.

(2) "Base jurisdiction", under provisions of the compact, means the jurisdiction in which the owner has "properly registered" vehicle(s) of a fleet as defined in RCW ~~((46.85.020(4)))~~ 46.87.020(14).

(3) "Base plate" means the vehicle license plate assigned to a vehicle by the base jurisdiction. Under the provisions of the IRP, this would be an "apportioned plate."

~~(4) ("Cab card" means the certificate of license registration issued for a proportionally or reciprocity registered vehicle.~~

~~(5))~~ "Compact" means the uniform vehicle registration proration and reciprocity agreement.

~~((6))~~ (5) "Combination of vehicles" means a power unit used in combination with trailer(s) ~~((and/or))~~, semi-trailer(s) and/or converter gear.

~~((7) "Declared combined gross vehicle weight" means the total unladen weight of any combination of vehicles plus the maximum load to be carried on that combination of vehicles for which registration fees have been or are to be paid.~~

~~(8) "Declared gross vehicle weight" means the total unladen weight of any vehicle plus the maximum load to be carried on that vehicle for which registration fees have been or are to be paid.~~

~~(9))~~ (6) "Department" means the department of licensing, state of Washington.

~~((10))~~ (7) "Interstate operation" means vehicle movement between or through two or more jurisdictions.

~~((11))~~ (8) "Intrastate operation" means vehicle movement within a single jurisdiction, from one point within that jurisdiction to another point within the same jurisdiction.

~~((12))~~ (9) "Latest purchase cost or price" means the actual purchase cost or price, if reasonable, for a vehicle paid by the current owner, ~~((if reasonable,))~~ including the value of any trade-in or other valuable considerations, cost of accessories and modifications but excluding taxes. Reasonable purchase cost is considered to be the

fair market value of the vehicle as determined from guide books, reports or compendiums of value recognized in the automotive industry. All values are to be expressed in ~~((U.S.))~~ United States dollars.

~~((13) "Lease" means a written document vesting exclusive possession, control of and responsibility for the operation of the vehicle to the lessee for a specified period of time.~~

~~(14) "Leased vehicle" means a vehicle which is leased for a period exceeding thirty days. The rental of a vehicle, or a series of rentals of a vehicle, amounting to more than thirty days is considered to be a leased vehicle.~~

~~(15))~~ (10) "Reciprocity jurisdiction" means a jurisdiction with which the state of Washington extends full vehicle license reciprocity because of an agreement, arrangement, declaration or mirror reciprocity as provided for in RCW 46.85.080.

~~((16) "Rental vehicle" means a vehicle which is licensable under the provisions of chapter 46.16 RCW and rented or offered for rent without driver. Rentals are for a specified period which will not exceed thirty days.)~~

#### AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-040 GENERAL PROVISIONS. (1) Fleet composition. Carriers may separate their commercial or apportionable vehicles into two or more fleets if such divisions are consistent with their operational practices, by reason of equipment design, or restrictions imposed by member jurisdictions.

(2) Records substantiating the latest purchase cost or price and year of purchase of each vehicle in the fleet must be retained for the period specified in RCW ~~((46.85.190))~~ 46.87.310 and made available to the department upon request.

(3) Filing and compliance dates. ~~((Prorate))~~ Proportional registration annual renewal applications must be filed with the prorate section of the department on or before December 1 of the year immediately preceding the year in which proportional registration is sought to insure timely issuance of identification for the new registration year. No temporary operating authority will be issued for renewal vehicles if the renewal application is received by the department after the above date. Washington proportional registrations expire at midnight, December 31st of each registration year, however, vehicles undergoing renewal processing and for which renewal fees and taxes have been received by the department prior to the beginning of the registration year, will have until March 1st of such registration year to display current year prorate ~~((identification,))~~ credentials. During the first two months of the registration year, such vehicles will display the ~~((identification))~~ credentials issued for the previous registration year.

(4) ~~((Prorate identification))~~ Proportional registration credentials. Washington prorate ~~((identification))~~ credentials consist((s)) of a cab card, which describes the vehicle and period for which the vehicle has been proportionally registered, and a prorate backing plate upon which is affixed a current prorate validation ~~((decals))~~ tab. If the vehicle described on the cab card is

Washington based, apportioned license plates, with current validation tab affixed, will be issued in lieu of the backing plate. If the vehicle is operating under the IRP, the cab card must show the jurisdiction(s) and gross weight for which the vehicle is registered. The cab card is to be carried in or on the vehicle to which it has been issued, or in the case of a trailing unit, it may be carried in or on the power unit of the combination. Photocopies or other facsimiles of the cab card are invalid. The cab card issued by the department or the IRP base jurisdiction is the only acceptable evidence of proportional registration in this state. The prorate backing plate, if applicable, is mounted on the front of a power unit and on the rear of a trailing unit. The validation ((~~dec~~)) tab shall be affixed to the upper left-hand corner square of the prorate backing plate or the space designated on the apportioned plate if applicable.

(5) Transfer of ((~~prorate identification~~)) proportional registration credentials. Washington ((~~prorate identification~~)) proportional registration credentials cannot be transferred from one vehicle to another vehicle or from one carrier to another carrier.

(6) Surrender of ((~~prorate identification~~)) proportional registration credentials. Upon termination of proportional registration or deletion of a vehicle from a fleet, prorate ((~~identification~~)) credentials will be disposed of as follows:

(a) Vehicle based in Washington. The cab card and ((~~prorate backing~~)) apportioned plate(s) with validation ((~~dec~~)) tab attached must be returned to the prorate section of the department. If vehicle is being deleted from the fleet, ((~~identification~~)) credentials must accompany the application effecting the deletion. ((~~The end of year (December 31st) deletion of a vehicle listed on the renewal application need not be accompanied by the identification issued to such vehicle.~~))

(b) Vehicle registered under provisions of the compact and based in another jurisdiction. Only the Washington cab card is returned to the prorate section. The prorate backing plate with validation ((~~dec~~)) tab attached must be returned to the prorate unit of the base jurisdiction licensing agency. If vehicle is being deleted from the fleet, cab card must accompany the application effecting the deletion. The end of year (December 31st) deletion of a vehicle listed on the renewal application need not be accompanied by the identification issued to such vehicle.

(c) Vehicles based in IRP jurisdictions. Upon termination of proportional registration or deletion of a vehicle from a fleet, the credentials must be returned to the base jurisdiction.

AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-050 APPLICATIONS FOR PROPORTIONAL((~~RECIPROCALITY~~)) REGISTRATION. Applicants desiring proportional ((~~and/or reciprocity~~)) registration in this state must make application to the prorate section of the department in the manner and upon the forms prescribed. Forms will be made available by the department. Washington based carriers

desiring registration in other IRP jurisdictions must indicate on their applications the jurisdictions in which the fleet is (is to be) registered, list vehicles by gross weight groups and indicate within each gross weight group the gross weight each vehicle of the group is to be registered for in each jurisdiction listed. Incorrect or incomplete applications will be returned without action.

The application for any fleet shall bear the same applicant's name, or be identified therewith, for each jurisdiction in which proportional registration is sought for such fleet.

After an original ((~~prorate~~)) proportional registration application has been filed with this state for a fleet ((~~with this state~~)), vehicles can only be added((:)) or deleted, or changes made in registered/combined gross vehicle weight ((~~made~~)), by filing a proration application supplement - Schedule "C" in the manner prescribed.

In circumstances where immediate operation of vehicles being added to the fleet is essential, a temporary letter of authority may be requested by the applicant for such vehicles, pending processing of the application and issuance of prorate ((~~identification~~)) credentials by the department, provided that:

(1) Licensing fees and taxes have been paid in full for the fleet's original Washington ((~~prorate~~)) proportional registration application; and

(2) The ((~~proration~~)) proportional registration renewal application or supplement - Schedule "C" adding such vehicles to the ((~~prorate~~)) proportionally registered fleet is acceptable and on file in the prorate section of the department; and

(3) The applicant's ((~~prorate~~)) proportional registration account is considered to be in good standing and on active status.

The temporary letter of authority will permit operation of the vehicles listed thereon, in jurisdictions and at gross weights indicated, for a period of time to be determined by the department but not longer than two months from the effective date of the letter. The temporary letter of authority will be issued by one of the following means as requested by the applicant:

(1) Mail;

(2) Collect facsimile or other electronic transmission for which the requestor pays the transmission fees.

AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-060 MILEAGE AND PRORATE PERCENTAGE. (1) Vehicles developing mileage experience must travel in two or more jurisdictions during the ((~~mileage experience~~)) registration year ((~~which is defined as the period July 1 through June 30 of the year immediately preceding the registration year for which proportional registration is being sought~~)). The mileage reported must be the actual miles accumulated by only those vehicles that were part of the ((~~prorate~~)) proportionally registered fleet during the mileage experience year. If a vehicle was part of the ((~~prorate~~)) proportionally registered fleet for only a part of the experience year, then only the miles accumulated by this vehicle during the time it was a part of the fleet are to be included in the mileage experience year. If a carrier has

more than one prorate fleet, a separate mileage report must be kept for each fleet.

(2) Vehicles operating only intrastate are not eligible for proportional registration and cannot be considered as part of a prorate fleet. Mileage accumulated by such vehicles cannot be included in the mileage experience year of any prorate fleet.

(3) Mileage computation.

(a) Applications containing either power units and trailing units pulled by such power units or power units only: Use miles of prorate fleet power units only.

(b) ~~((Applications)) Fleets containing ((power and)) trailing units ((from the same carrier with separate statements for power units and trailing units: Use only miles of prorate fleet power units for power unit statement. Use miles of all applicant's line power units, whether prorated or not, operated interstate in combination with prorated trailers for the trailer statement)) that are operated in jurisdictions in addition to those in which the power units of the fleet are operated, or trailing units of a fleet operated with motor vehicles that are not part of the fleet, shall be placed in separate fleets.~~

(c) Applications for trailer fleet only: Use miles of power units only, whether prorated or not, which are operated in combination with the prorated trailers.

(4) The prorate section of the department will not accept any original or renewal prorate applications which contains one or more of the following:

(a) Estimated mileage that does not realistically reflect proposed operations.

(b) Estimated mileage on renewal applications, unless operations began so late in the previous registration year that an actual mileage experience year is not yet available.

(c) Mileage data, other than estimated mileage, expressed in rounded-off numbers on renewal applications.

(d) Identical mileage data reported for consecutive registration years for the same fleet, except when mileage is estimated.

(5) To compute the prorate percentages, divide the miles for each jurisdiction by the total fleet miles. The results are to be computed to the fourth decimal of the percent and rounded up to the third decimal. Express the percent in two digits before the decimal and three digits after the decimal. The Washington prorate percentage established on an original or renewal application will remain in effect for all supplemental applications filed during the registration year unless adjusted by audit or under the provisions of RCW ~~((46.85.170))~~ 46.87.120.

#### AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-070 QUARTERLY ((TONNAGE)) LICENSING FOR PROPORTIONALLY REGISTERED VEHICLES. In order to participate in the quarterly (three months) ~~((tonnage))~~ licensing program, a Washington based carrier must initially make its desire known to the prorate section by attaching a note or letter to the original or renewal proration application stating its desire to participate in the quarterly ((tonnage)) licensing program. Participation will then continue as long as the fleet maintains eligibility under the

provisions of RCW 46.87.160, the carrier withdraws from the program or the privilege is withdrawn by the department for cause. ((Quarterly tonnage will expire at midnight on the last day of each calendar quarter—March 31, June 30, September 30, and December 31.

To maintain eligibility to purchase tonnage on a quarterly basis, the following rules must be adhered to:

(1) The fleet must be Washington based, contain a minimum of three power units at all times and have a Washington prorate percentage of sixty percent or more.

(2) Each power unit within the fleet must be licensed for at least 68,000 pounds of combined gross vehicle weight.

(3) Quarterly tonnage is based on the calendar quarters of each registration year and must be renewed each quarter for each power unit in the fleet which has not been permanently removed from the fleet. Removal from the fleet is accomplished by filing, with the prorate section, a proration application supplement — Schedule "C," upon which such vehicle is listed as a deletion. The cab card prorate backing plate and validation decal issued to each vehicle being deleted must accompany the application effecting the deletion.

(4) Quarterly renewal tonnage fees must be paid prior to the beginning of the quarter for which fees are due. New identification will not be available for at least four business days after receipt of payment. No letters of authority will be issued for quarterly tonnage renewals.

Failure to comply with the above requirements will be cause for suspension and/or cancellation of the carrier's quarterly tonnage privileges. Upon cancellation of these privileges, tonnage fees for the remainder of the registration year will be immediately due and payable for all power units in the fleet.) This program pertains only to the quarterly payment of the license fee prescribed in RCW 46.16.070, it does not authorize partial payment of any other fee or tax authorized or required for payment by another statute or rule.

#### AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-080 TEMPORARY AUTHORIZATION PERMIT. Washington temporary authorization permits (TAPs) are available to carriers who have been prorated with the state of Washington for a minimum of one year, have not had their TAP or prorate privileges suspended, revoked or canceled in this state within the past three years, and who have a history of making prompt payment of fees when due and final, usually within thirty days of the billing date. These permits may be used by qualified carriers to allow immediate operation of vehicles being added to their fleet pending issuance of ~~((prorate license identification))~~ proportional registration credentials.

Carriers desiring the privilege of obtaining and using TAPs must make application in writing to the prorate section of the department and indicate their anticipated annual requirements for these permits. Upon approval of the application, the carrier may place an order for ten or more TAPs utilizing order forms to be provided by the department; payment as prescribed in RCW ~~((46.85-170))~~ 46.87.080 must accompany the application. TAPs

are valid for a period of two months from the date of issue by the carrier. The following procedures govern the use and issuance of these permits:

(1) TAPs are serially numbered and must be issued by the carrier in sequential order. Carriers are accountable and liable for all TAPs purchased from the department. These permits are not transferable and may be utilized only by the carrier to whom they were issued for use with vehicles being added to their fleet or fleets. Carriers must return all unused TAPs at such time as they cancel or fail to renew their Washington prorate account; or at such time as the department withdraws, suspends, revokes or cancels their TAP and/or prorate privileges in this state. No refunds or credits will be given for TAPs that are returned to the department.

(2) TAPs may only be used for vehicles being added to a carrier's established fleet. They cannot be used to increase ~~((vehicle))~~ gross weight on a vehicle or for a vehicle that has already been listed on ~~((proration))~~ a proportional registration application Schedule "A" or ~~((proration))~~ proration registration application supplement Schedule "C" or renewal application which has been submitted to the prorate section of the department. Only one permit may be issued for any one vehicle.

(3) TAPs must be filled out with a typewriter. All applicable blanks must be completed with requested data. If an error is made in the issue date ~~((or))~~, expiration date ~~((or))~~, gross weight ~~((or))~~, license plate number ~~((or))~~, serial/identification number blanks or in the jurisdiction/weight section, void the permit by printing the word "VOID" in large letters across the face of the permit ~~((and))~~. Then return the vehicle copy and prorate copy to the department within one week or with your next proration application supplement, whichever is ~~((soonest))~~ sooner. If TAP is to be used for a vehicle being added to a fleet registered under the provisions of the IRP, the jurisdiction postal code abbreviation, along with the declared operating weight for such jurisdiction, must be indicated in the space provided for each jurisdiction in which the fleet is registered. Jurisdiction/weight listings must begin in the upper left space provided and continue across the form to the right. Each line must be completed before starting the next line immediately below if needed. After the last entry, spaces to the right must be filled with asterisks as must be the entire line immediately below the last completed line in this section of the form. The purpose of the asterisks is to preclude entry of additional jurisdictions/weights. Retain the applicant's file copy for ~~((five))~~ four years pending possible audit of account under the provisions of RCW ~~((46.85-190))~~ 46.87.310. No refund or credit will be given for voided permits; and, they must be accounted for in the department records.

(4) The original copy of the TAP is to be carried in the vehicle to which it was issued; however, if the vehicle is a trailing unit, it may be carried in the towing vehicle. The second copy of the permit is to be retained in the carrier's files for a period of ~~((five))~~ four years pending possible audit under the provisions of RCW ~~((46.85-190))~~ 46.87.310. The third copy is to be attached to a Washington proration application supplement which is used to add the vehicle to the carrier's fleet.

(5) When TAPs have been issued, a proration application supplement Schedule "C," listing such vehicles as additions to the fleet, must be submitted to the prorate section of the department, along with the third copy of the TAP attached, within one week of the issue date of such TAPs. To facilitate compliance with this requirement, proration application supplement Schedule "C" and TAPs should be issued from the same location. Failure to submit a proration application for vehicles to which TAPs have been issued, within one week, shall be cause for suspension and cancellation of TAP and/or proportional registration privileges in the state of Washington.

(6) Other causes for suspension and cancellation of TAP and/or proportional registration privileges are:

- (a) Failure to comply with these rules and procedures; or
- (b) Failure to complete TAPs in their entirety prior to use; or
- (c) Failure to comply with Washington prorate instructions, rules or laws; or
- (d) Failure to make timely payment of registration fees, taxes or audit assessments when due and final (usually within thirty days); or
- (e) Failure to maintain accountability of TAPs.

#### AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-090 LEASED AND RENTED VEHICLES. (1) ~~((Vehicles which are leased or rented for a period in excess of thirty days, or a series of short term leases or rentals amounting to more than thirty days, must be registered in the name of the lessee who must also maintain accurate mileage records. For leases or rentals of thirty days or less, the lessor must maintain an accurate record of miles operated by the lessee in each jurisdiction as well as the miles that the lessor operates the vehicle))~~ The registration of rental vehicles will be conducted under the provisions, currently identified as article XI—registration of rental vehicles, of the international registration plan (IRP) as now written or hereafter amended. Rental vehicles under this section include: Trucks, tractors, and truck-tractors, trucks of one-way fleets (less than 26,000 pounds gross weight); trailers and semitrailers (exceeding 6,000 pounds gross weight), utility trailers (not exceeding 6,000 pounds gross weight), and passenger cars (includes recreational vehicles). A copy of the rental/lease agreement must be carried in the rental/leased vehicle or if it is a nonpowered vehicle, the vehicle providing the motive power for the combination.

(2) Single trip lease. The requirements for single trip leasing are as follows:

- (a) The lessor's vehicles must be prorated in this state or operated under authority of vehicle trip permits.
- (b) The duration of the lease agreement is for a single trip and cannot exceed thirty days.
- (c) A completed copy of the single trip lease agreement must be carried in the lessor's vehicle throughout the duration of the lease.
- (d) All mileage accumulated throughout the duration of the single trip lease agreement will be recorded by the

lessor and become a part of the lessor's mileage experience year. The mileage records, trip reports and single trip lease agreement must be maintained by the lessor for a period of four years following the mileage experience year or period upon which the application is based.

(3) ~~((The compact provides that))~~ Normally the lessee of a vehicle is responsible for its licensing under proportional registration subject to the following exceptions:

(a) Household goods carriers, wherein the agent is the lessor and the company is the lessee, may file and register as dual applicants. Under this procedure, the lessor's fleet is prorated in ~~((their))~~ its name and cab cards are issued in the name of both the lessor and lessee. The application is based on the lessor's vehicles and the mileage accumulated by the lessor under ~~((his))~~ its name and that of the lessee. The application should be ~~((registered))~~ filed in the name of the lessee and the lessor. For equipment owned and operated by owner-operators, other than service representatives, and used exclusively to transport cargo for the household goods carrier, the vehicle shall be registered by the carrier in the base jurisdiction of the carrier, but in both the owner-operator's name and that of the carrier as lessee, with the apportionment of fees according to the records of the carrier.

(b) The lessor of a single trip lease agreement is responsible for licensing and recordkeeping.

(c) Optional for rental vehicles referred to in subsection (1) of this section.

#### NEW SECTION

WAC 308-91-120 FEDERAL HEAVY VEHICLE USE TAX. (1) Any owner registering a Washington based fleet of commercial vehicles in one or more other jurisdictions and engaged in interstate operation, may, in lieu of registration of vehicles under the provisions of chapter 46.16 RCW, proportionally register the vehicles of the fleet under the provisions of chapter 46.87 RCW by filing a proportional registration application with the department.

(2) The department of licensing shall require owners of motor vehicles with a declared combined gross weight of 55,000 pounds or more to provide proof, acceptable to the department, that the federal heavy vehicle use tax imposed by section 4481 of the Internal Revenue Code of 1954 has been suspended or paid at the time of registration unless specifically exempt by the rules and regulations of the Internal Revenue Service. The department shall refuse registration of such vehicles if sufficient proof is not presented at time of registration. Acceptable proof for registration purposes is:

(a) The original or photocopy of an Internal Revenue Service (IRS) receipted schedule 1 (IRS form 2290) schedule of highway motor vehicles; or

(b) Photocopy of IRS form 2290 with schedule 1 as filed with the IRS and a photocopy of the front and back sides of the cancelled check used for the payment of taxes to the IRS.

#### NEW SECTION

WAC 308-91-130 HUNTER'S PERMIT. (1) Upon request, Washington will provide a means of temporary registration (hunter's permit) for owner-operators to move their empty vehicle or combination of vehicles from one lessee-carrier fleet, which they were a part of, to a new lessee-carrier fleet to which they will become a part of. This temporary authority will be issued without cost and be valid for ten days from the date of issue. Photocopies of the permit will not be valid.

(2) The purpose of a hunter's permit is to allow an owner-operator to move their empty (unladen) vehicle or combination of vehicles from one lessee-carrier fleet to another without the need for further registration and/or violation of general registration statutes in IRP jurisdictions.

(3) A hunter's permit issued by an IRP jurisdiction to an owner-operator, who was formerly based in such jurisdiction, will be honored in this state for operation at the unladen weight of the vehicle or combination of vehicles listed therein. If vehicles operating under authority of a hunter's permit attempt to carry any load or if the permit appears to have been tampered with, it shall be considered to be invalid and will be confiscated. Photocopies of hunter's permits are not acceptable.

#### NEW SECTION

WAC 308-91-140 VEHICLE TRANSACTION FEE. The vehicle transaction fee pursuant to RCW 46.87.130 is hereby established in the amount of three dollars.

#### NEW SECTION

WAC 308-91-150 FORM OF PAYMENT REQUIRED—DISHONORED CHECKS. (1) An original or renewal application assessment for proportional registration fees/taxes due the state of Washington shall be paid in United States funds via cash, cashier's check, certified check, or money order. All other assessments may be paid by company or personal checks unless guaranteed payment is specifically required by the department.

(2) Any registrant who tenders two or more checks that are subsequently dishonored by the bank or other financial institution upon whom they were drawn, in any twelve continuous month period, may be required to tender all subsequent payments in person by cash or by cashier's check, certified check, or money order.

(3) A handling fee in the amount of ten dollars shall be assessed the drawer for each check dishonored by the bank or other financial institution upon whom it was drawn and interest on the amount of each check shall accrue from the date of dishonor at the rate of twelve percent per annum. The interest and handling fee shall be deposited into the highway safety fund.

#### NEW SECTION

WAC 308-91-160 RECIPROCITY FOR COMBINATIONS OF VEHICLES. Combinations of vehicles operating in or through the state of Washington will be

granted reciprocity if the vehicles making up the combination are all properly registered in reciprocity jurisdictions. Combinations containing one or more vehicles that are not properly registered in reciprocity jurisdictions will cause all vehicles within the combination to be registered or temporarily registered in the state of Washington.

#### NEW SECTION

**WAC 308-91-170 WASHINGTON FEE/TAX RECEIPT.** When an IRP member jurisdiction, acting in behalf of the state of Washington, issues a cab card indicating a vehicle is duly registered for operation in or through the state of Washington but the IRP member jurisdiction has not first calculated and collected the prescribed fees/taxes for such vehicle, the cab card will not be honored in this state unless accompanied by a Washington fee/tax receipt. Such receipt will only be issued after this state calculates and collects the prescribed fees/taxes for the vehicle being registered.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

**WAC 308-91-020 INSTRUCTIONS, PROCEDURES AND DECLARATIONS.**

**WAC 308-91-100 OPERATION OF RENTAL VEHICLES.**

**WAC 308-91-110 UTILITY TRAILER RENTALS—CERTIFIED AVERAGE REGISTRATION PLAN.**

### **WSR 88-03-031**

#### **ADOPTED RULES**

#### **STATE PATROL**

#### **(Commission on Equipment)**

[Order 88-01-ESR—Filed January 15, 1988]

I, George B. Tellevik, Chief of the Washington State Patrol, do promulgate and adopt at the General Administration Building, Olympia, the annexed rules relating to practice and procedure for making or amendment of rules.

This action is taken pursuant to Notice No. WSR 87-24-095 filed with the code reviser on December 2, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington State Patrol as authorized in RCW 46.37.005.

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

APPROVED AND ADOPTED January 15, 1988.

By George B. Tellevik  
Chief

#### AMENDATORY SECTION (Amending Rule II, filed 3/21/60)

**WAC 204-08-020 PETITIONS FOR RULE-MAKING AMENDMENT OR REPEAL.** (1) Any interested person may petition the ((commission)) chief requesting the promulgation, amendment, or repeal of any regulation.

(2) Where the petition requests the promulgation of a regulation, the requested or proposed regulation must be set out in full. The petition must also include all the reasons for the requested regulation together with briefs of any applicable law. Where the petition requests the amendment or repeal of a regulation presently in effect, the regulation or portion of the regulation in question must be set out as well as the suggested amendment form if any. The petition must include all reasons for the requested amendment or repeal of the regulation.

(3) All petitions shall be considered by the ((commission)) chief and ((it)) he/she may, ((in its discretion,)) order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal, or modification of any regulation.

(4) The ((commission)) chief shall notify the petitioning party within a reasonable time of the disposition, if any, of the petition.

#### AMENDATORY SECTION (Amending Order 7760, filed 7/27/78)

**WAC 204-08-030 DECLARATORY RULINGS.**

(1) As prescribed in RCW 34.04.080, any interested person may petition the ((commission)) chief for a declaratory ruling. The ((commission)) chief shall consider the petition and within a reasonable length of time shall:

(a) Issue a nonbinding declaratory ruling; or

(b) Notify the person that no declaratory ruling is to be issued; or

(c) Set a reasonable time and place for an oral hearing or the submission of written evidence upon the matter, and give reasonable notification to the person of the time and place for such hearing or submission and of the issues involved.

If a hearing as provided in subsection (c) is conducted, the ((commission)) chief shall within a reasonable time:

(1) Issue a binding declaratory rule; or

(2) Issue a nonbinding declaratory rule; or

(3) Notify the person that no declaratory ruling is to be issued.

#### AMENDATORY SECTION (Amending Rule IV, filed 3/21/60)

**WAC 204-08-040 FORMS FOR DECLARATORY RULINGS.** Any interested person petitioning the ((commission)) chief for a declaratory ruling pursuant to RCW 34.04.080, shall generally adhere to the following form for such purpose.

(1) At the top of the page shall appear the wording "Before the ((state commission on equipment)) chief of the Washington state patrol." On the left side of the page following the foregoing the following caption shall be set out: "In the matter of the petition of (name of

petitioning part) for a declaratory ruling." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

(3) The original and two legible copies shall be filed with the agency. Petitions shall be on white paper 8 1/2" by 11" in size.

**AMENDATORY SECTION** (Amending Rule V, filed 3/21/60)

WAC 204-08-050 FOR PROMULGATION, AMENDMENT, OR REPEAL OF COMMISSION REGULATIONS. ((For)) Interested persons petitioning the ((commission)) chief requesting a promulgation, amendment, or repeal of any regulations shall generally adhere to the following form for such purpose.

(1) At the top of the page shall appear the wording "Before the ((state commission on equipment)) chief of the Washington state patrol." On the left side of the page following 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 ((regulation)) rule (or ((regulations)) rules)." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether the petitioner seeks the promulgation of new ((regulation)) rule or ((regulations)) rules, or amendment or repeal of existing ((regulation)) rule or ((regulations)) rules. The second paragraph, in the case of a proposed new ((regulation)) rule or ((regulations)) rules or amendment of an existing ((regulation)) rule, shall state the desired ((regulation)) rule in its entirety. Where the petition is for amendment, the new matter shall be underscored and the matter proposed to be deleted shall appear in double parentheses. Where the petition is for repeal of an existing ((regulation)) rule such shall be stated and the proposed to be repealed shall either be set forth in full or shall be referred to by ((commission regulation)) rule number. The third paragraph shall set forth concisely the reason for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the ((regulation)) rule. Additional numbered paragraphs may be used to give full explanation of the petitioners reasons for the action sought.

(3) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the agency.

(4) Petitions shall be on white paper 8 1/2" by 11" in size.

**WSR 88-03-032**  
EMERGENCY RULES  
**DEPARTMENT OF WILDLIFE**  
[Order 341—Filed January 15, 1988]

Be it resolved by the director of the Department of Wildlife, acting at Olympia, Washington, that it does adopt the annexed rules relating to WAC 232-28-61520, emergency conservation closure of all elk hunting in Game Management Unit 472 (White River) under the authority of State v. Miller, Washington State Supreme Court, 1984.

I, the director of the Department of Wildlife, 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 low bull to cow and cow to calf ratios and adverse impacts of hunting during critical winter stress periods, as well as potential highway mortality require the cessation of all elk hunting in Game Management Unit 472 (White River).

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

This rule is promulgated pursuant to WAC 232-12-085 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 January 15, 1988.

By Jack S. Wayland  
Director

**[NEW SECTION]**

**WAC 232-28-61520 CLOSURE OF GAME MANAGEMENT UNIT 472 (WHITE RIVER).** Effective 12:01 a.m. January 16, 1988, it is unlawful for any person to hunt or take elk in Game Management Unit 472 (White River). This is an all citizen closure.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 88-03-033**  
PROPOSED RULES  
**DEPARTMENT OF LICENSING**  
(Physical Therapy Board)  
[Filed January 19, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State

Physical Therapy Board intends to adopt, amend, or repeal rules concerning licensure examination appeal procedures;

that the agency will at 9:30 a.m., Tuesday, February 23, 1988, in the Airport Ramada Inn, Spokane International Airport, Spokane, 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 18.74.023.

The specific statute these rules are intended to implement is RCW 18.74.023.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 23, 1988.

Dated: January 15, 1988

By: John H. Keith  
Assistant Attorney General  
Board Counsel

#### STATEMENT OF PURPOSE

Name of Agency: State of Washington Board of Physical Therapy.

Purpose and Reason Proposed: To establish procedures for the review of license examination failures.

Summary: WAC 308-42-015 Examination appeal procedures.

Statutory Authority: RCW 18.74.023.

Responsible Departmental Personnel: In addition to members of the Physical Therapy Board, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Yvonne Braeme, Program Manager, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-3095 comm, 234-3095 scan.

Proponents: The subject matter of this rule hearing has been proposed by the Washington State Board of Physical Therapy.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term was defined by RCW 43.31.920.

#### NEW SECTION

##### WAC 308-42-015 EXAMINATION APPEAL PROCEDURES.

(1) Any candidate who takes the state written examination for licensure and does not pass may request informal review by the board of his or her examination results. This request must be in writing and must be received by the Department of Licensing, Professional Program Management Division within thirty (30) days of the postmark on the notification of the examination results. The board will not set aside the examination results unless the candidate proves the challenged score was the result of fraud, coercion, arbitrariness or manifest unfairness. The board will not consider any challenges to examination scores unless the total revised score could result in a passing score.

(2) The procedure for filing an informal review is as follows:

(a) Contact in writing the Department of Licensing office in Olympia for an appointment to appear personally to review incorrect answers on failed examinations.

(b) Candidate will be provided a form to complete in the Department of Licensing office in Olympia in defense of his or her examination answers.

(c) The candidate must state the specific reason or reasons why the candidate feels the results of the examination should be changed.

(d) Candidate will be identified only by candidate number for the purpose of this review. Letters of reference or requests for special consideration will not be read or considered by the board.

(e) Candidate may not bring in any resource materials for use while completing the informal review form.

(f) The candidate will not be allowed to remove any notes or materials from the office upon leaving.

(g) The candidate must comply with all procedural and security requirements for examination appeals adopted by the Department of Licensing or the Professional Examination Service.

(h) The board will review and evaluate the comments submitted by the candidate on the forms provided for the informal review and make its decision regarding the candidate.

(i) The candidate will be notified in writing of the board's decision by the department.

(3) Any candidate who is not satisfied with the result of the examination review may request a formal hearing to be held before the board pursuant to the administrative procedures act. Such hearing must be requested within thirty (30) days of the postmark of the result of the board's review of the examination results. The request must state the specific reason or reasons why the candidate feels the results of the examination should be changed. The prior determination will not be set aside unless the candidate proves the challenged score was the result of fraud, coercion, arbitrariness or manifest unfairness. The board will not consider any challenges to examination scores unless the total revised score could result in a passing score.

(4) Prior to scheduling the hearing the candidate or the state's attorney may petition to appear before an administrative law judge for a prehearing conference to consider the following:

(a) the simplification of issues;

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

(c) the possibility of obtaining stipulations, admissions of fact and documents;

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

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

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

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

(6) Candidates seeking formal appeal will receive at least twenty (20) days advance notice of the time and place of the formal hearing. The hearing will be restricted to the specific reasons the candidate has identified as the basis for a change in the examination score.

#### WSR 88-03-034

##### PROPOSED RULES

#### DEPARTMENT OF LICENSING

[Filed January 19, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Licensing intends to adopt, amend, or repeal rules concerning the certification examination and exemption of respiratory care practitioners;

that the agency will at 10:00 a.m., Tuesday, March 1, 1988, in the Exam Center, First Floor, 1300 Quince Street, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on a date following the hearing.

The authority under which these rules are proposed is RCW 18.89.050.

The specific statute these rules are intended to implement is RCW 18.89.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 1, 1988.

Dated: January 13, 1988

By: Robert Van Schoorl  
Assistant Director

### STATEMENT OF PURPOSE

Name of Agency: Washington State Department of Licensing.

Purpose: To implement chapter 18.89 RCW regarding the certification of respiratory care practitioners.

Statutory Authority: RCW 18.89.050.

Summary of Rules: WAC 308-195-020 Recognized educational programs—Respiratory care practitioners; 308-195-030 State examination/examination waiver/examination application deadline; 308-195-040 Examination eligibility; 308-195-050 Definition of "commonly accepted standards for the profession"; 308-195-060 Grandfather—Verification of practice; 308-195-070 Grandfather—Examination dates; 308-195-080 Reciprocity—Requirements for certification; 308-195-090 Initial renewal period; 308-195-100 Certification renewal registration date; and 308-195-110 Rural hospital exemption.

Reason Proposed: To establish the qualifications and procedures for certification of respiratory care practitioners and to provide for renewal of certification and waiver of examination.

Responsible Department Personnel: The following personnel have knowledge of and responsibility for drafting, implementing and enforcing the rules: Robert Van Schoorl, Assistant Director, Business and Professions Administration, 1300 Quince Street S.E., Olympia, WA 98504, 234-2241 scan, 753-2241 comm.

Proponents: Director of the Department of Licensing.

Federal Law or Federal or State Court Requirements: Not necessitated as the result of federal law or federal or state court requirements.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as the term was defined by RCW 43.31.920.

### NEW SECTION

WAC 308-195-020 RECOGNIZED EDUCATIONAL PROGRAMS—RESPIRATORY CARE PRACTITIONERS. Approved courses of instruction for respiratory care practitioners are recognized as the respiratory therapy technician and respiratory therapy education programs that have obtained accreditation from the Committee on Allied Health Education and Accreditation of the American Medical Association in collaboration with the Joint Review Committee for Respiratory Therapy Education as recognized in the publication Respiratory Therapy Educational Programs published by the Joint Review Committee for Respiratory Therapy Education, Revised May, 1987.

### NEW SECTION

WAC 308-195-040 STATE EXAMINATION/EXAMINATION WAIVER/EXAMINATION APPLICATION DEADLINE. Examination. (1) The Entry Level Certification Examination of the National Board of Respiratory Care, Inc. shall be the official examination for certification as a respiratory care practitioner.

(a) The examination for certification as a respiratory care practitioner shall be conducted three times a year in the state of Washington, in March, July, and November.

(b) The examination shall be conducted in accordance with the National Board of Respiratory Care, Inc.'s security measures and contract.

(c) Examination candidates shall be advised of the results of their examination in writing.

(2) Applicants taking the state examination must submit the application and supporting documents to the department of licensing no later than the first day of December, for the March examination; the first day of April, for the July examination; and the first day of August for the November examination.

(3) An applicant who has passed the certification or registry examination given by the National Board of Respiratory Care, Inc. may be granted a certificate without further examination.

(4) A scaled score of 75 is required to pass the examination.

### NEW SECTION

WAC 308-195-040 EXAMINATION ELIGIBILITY. (1) Graduates of approved respiratory care technician and respiratory care therapy programs or those individuals that have met the criteria for alternate training may be eligible to take the state examination.

(2) Respiratory care technician or respiratory care therapy students in their last year may apply for certification by examination prior to graduation under the following circumstances:

(a) Receipt of a letter of verification from the program director indicating that the applicant is in good standing and verifying the probability of completion prior to the last day of the calendar month preceding the examination for which they are applying.

(b) Results of the examination will be withheld until official transcripts from the program, indicating degree earned, is received by the department.

### NEW SECTION

WAC 308-195-050 DEFINITION OF "COMMONLY ACCEPTED STANDARDS FOR THE PROFESSION". "Commonly accepted standards for the profession" as indicated in RCW 18.89.130 shall mean having completed training in an approved respiratory care technician or respiratory care therapy program or having completed sufficient on-the-job training and experience to have qualified the applicant to take the National Board of Respiratory Care examination prior to July 26, 1987, satisfactorily passed the certification or registry examination given by the National Board of Respiratory Care, Inc. with a minimum scaled score of 75, not having engaged in unprofessional conduct as established in RCW 18.130.180, and not been convicted of a crime of moral turpitude or felony which relates to the profession of respiratory care.

### NEW SECTION

WAC 308-195-060 GRANDFATHER - VERIFICATION OF PRACTICE. Proof of practice. Applicants requesting certification as permitted in RCW 18.89.130 shall submit the following as proof of being in practice on July 26, 1987.

(1) Applicant's affidavit containing the following information:

(a) Location and date of employment on July 26, 1987;

(b) Description of capacity in which applicant was employed, including job title and description of specific duties;

(c) Name and title of direct supervisor.

(2) Affidavit from direct supervisor containing the following information:

(a) Applicant's employment beginning and ending dates;

(b) Statement confirming applicant's duties as described;

(c) Supervisor's title.

After review of the documentation submitted in support of the application, additional information may be requested for the purpose of clarification.

### NEW SECTION

WAC 308-195-070 GRANDFATHER - EXAMINATION DATES. (1) Applicants qualifying for respiratory care practitioner certification under RCW 18.89.130(2) shall have one year from July 26, 1987 to apply for examination.

(2) Applicants who qualify for respiratory care practitioner certification under RCW 18.89.130(2) and are eligible for exemption under

the rural hospital designation shall have one year from September 15, 1988 to apply for examination.

(3) Applicants must satisfactorily complete the examination in four consecutive sittings.

#### NEW SECTION

**WAC 308-195-080 RECIPROCITY — REQUIREMENTS FOR CERTIFICATION.** Before reciprocity is extended to any individual licensed, certified or registered to practice respiratory care under the law of another state, territory, or District of Columbia, the applicant shall meet the qualifications established in this state for certification.

#### NEW SECTION

**WAC 308-195-090 INITIAL RENEWAL PERIOD.** Certificates which expire in 1988 and 1989 will be renewed on a staggered basis. Individuals whose birth year ends in an odd number will renew for one year, paying one-half the biennial renewal fee; individuals whose birth year ends in an even number will renew for two years. Subsequent renewals will be on a biennial basis.

#### NEW SECTION

**WAC 308-195-100 CERTIFICATION RENEWAL REGISTRATION DATE.** (1) Individuals receiving initial certification will be issued a certificate to expire on their next birth anniversary date.

(2) Certifications shall be renewed upon a biennial basis on or before the individual's birth anniversary date. Certifications not renewed on or before the individual's biennial birth anniversary date shall expire immediately after the individual's birth anniversary date. Any practice engaged in after a certification has expired shall be deemed unauthorized practice.

#### NEW SECTION

**WAC 308-195-110 RURAL HOSPITAL EXEMPTION.** Individuals may qualify for exemption from certification as specified in RCW 18.89.900 until September, 15 1988 if they are employed in a rural hospital.

"Rural hospital" shall be defined as those hospitals listed on Table 6 of the October, 1986, "Rural Access to Medical Care in Washington State" report by the State Health Coordinating Council.

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

### **WSR 88-03-035**

#### **PROPOSED RULES**

#### **DEPARTMENT OF LICENSING**

#### **(Board of Osteopathic Medicine and Surgery)**

[Filed January 19, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Osteopathic Medicine and Surgery intends to adopt, amend, or repeal rules concerning amendatory sections WAC 308-138-055, 308-138-320, 308-138A-020 and 308-138A-025;

that the agency will at 10:00 a.m., Friday, March 4, 1988, in the West Coast Hotel, Cascade Room, 18220 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 18.57A.020, 18.57.005 and 18.130.050.

The specific statute these rules are intended to implement is RCW 18.57A.020, 18.57.130 and 18.130.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 3, 1988.

Dated: January 19, 1988

By: Joyce R. Dolliver  
Assistant Attorney General

#### **STATEMENT OF PURPOSE**

Title and Number of Rule Section(s) or Chapter(s): WAC 308-138-055 Osteopathic medicine and surgery examination; 308-138-320 Malpractice suit reporting; 308-138A-020 Osteopathic physicians' assistants; and 308-138A-025 Osteopathic physicians' assistant prescriptions.

Statutory Authority and Specific Statute(s) that Rule(s) are Intended to Implement: WAC 308-138-055 is proposed under RCW 18.57A.020 and is intended to implement RCW 18.57.130; WAC 308-138-320 is proposed under RCW 18.130.050 and is intended to implement RCW 18.130.070(4); and WAC 308-138A-020 and 308-138A-025 are proposed under RCW 18.57A.020 and are intended to implement RCW 18.57A.020.

Summary of the Rules: WAC 308-138-055 clarifies the language in the rule; 308-138-320 makes the language consistent with RCW 18.57.245; 308-138A-020 updates the criteria for osteopathic physician's assistant program approvals and permits the board to approve a physician licensed under chapter 18.71 RCW as an alternate supervisor of an osteopathic physician's assistant under the extraordinary circumstance of a second osteopathic physician not being available in the community to act as an alternate osteopathic physician supervisor; and 308-138A-025 contains housekeeping changes.

Reasons Supporting the Proposed Rules: WAC 308-138-055, 308-138-320 and 308-138A-025 are housekeeping changes; and 308-138A-020 contains housekeeping changes and a change to permit a physician licensed under chapter 18.71 RCW to act as an alternate supervisor of an osteopathic physician's assistant, which is necessary for those communities in which a second osteopathic physician does not exist to act as an alternative supervisor.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: In addition to members of the board, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Linda Crerar, Executive Secretary, Division of Professional Licensing, P.O. Box 9012, Olympia, WA 98504, (206) 753-3129 comm, 234-3129 scan.

Name of the Person or Organization that is Proposing the Rules: Washington State Board of Osteopathic Medicine and Surgery.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to These Rules: None.

These rules are not necessary to comply with a federal law or a federal or state court decision.

**Small Business Economic Impact Statement:** Not required for these rules. The board has reviewed the impact that these rules would have on osteopathic physicians and osteopathic physicians' assistants. The board finds that a small business impact statement is not required. Osteopathic physicians and osteopathic physicians' assistants are classed in SIC Code 803, Offices of Osteopathic Physicians. These rules do not have an economic impact on the industry.

**AMENDATORY SECTION** (Amending Order PL 527, filed 4/24/85)

**WAC 308-138-055 OSTEOPATHIC MEDICINE AND SURGERY EXAMINATION.** (1) Washington examination. Applicants for licensure as osteopathic physicians must pass the Federation of State Licensing Board (FLEX) with a minimum score of seventy-five on each component of the FLEX I and II examination, and obtain at least a seventy-five percent overall average on a board administered examination on osteopathic principles and practices.

(2) Examination waiver or reciprocity. An applicant who has passed the examination given by the National Board of Osteopathic Examiners may be granted a license without further examination. The board may accept certain other state examinations which conform to the requirements of Washington law. The minimum passing score will depend upon the quality of the examination as determined by the board. Partial waiver may be given for examinations which do not meet Washington state requirements. In the event that a Washington osteopathic principles and practices examination is required (~~it will be considered in the same manner as subsection (1)~~), applicants must obtain at least a seventy-five percent overall average on the examination.

**AMENDATORY SECTION** (Amending Order 323, filed 11/29/79)

**WAC 308-138-320 MALPRACTICE SUIT REPORTING.** ((1)) Every osteopathic physician shall, within ((twenty)) sixty days after ((service or knowledge thereof)) settlement or judgment, notify the board of any ((suit filed in any court in which the osteopathic physician is named as a defendant and which seeks damages relating to the providing or failure to provide any health care services)) and all malpractice settlements or judgments in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by a physician's incompetency or negligence in the practice of osteopathic medicine. Every osteopathic physician shall also report the settlement or judgment of three or more claims or actions for damages during a year as the result of the alleged physician's incompetency or negligence in the practice of osteopathic medicine regardless of the dollar amount of the settlement or judgment.

((2) The board requests the assistance of the clerk of all trial courts in reporting the filing of any suit in which an osteopathic physician is named as a defendant and which seeks damages relating to the provision or failure to provide health care services:))

**AMENDATORY SECTION** (Amending Order PM 671, filed 10/7/87)

**WAC 308-138A-020 OSTEOPATHIC PHYSICIANS' ASSISTANTS.** (1) Program approval required. No osteopathic physician shall be entitled to register an osteopathic physicians' assistant who has not successfully completed a program of training approved by the Board in accordance with these rules.

(2) Program approval procedures. In order for a program for training osteopathic physicians' assistants to be considered for approval by the board it must meet the minimal criteria established by the committee on allied health education and Accreditation Association of the American Medical Association as of ((1985) [1978]) 1985. The director of the program shall submit to the board a description of the course of training offered, including subjects taught and methods of teaching, entrance requirements, clinical experience provided, etc. The director shall also advise the board concerning the basic medical skills which are attained in such course, and the method by which the proficiency of the students in those skills was tested or ascertained. The board may require such additional information from program sponsors as it desires.

(3) Approved programs. The board shall approve programs in terms of skills attained by its graduates. A registry of approved programs shall be maintained by the board at the division of professional licensing in Olympia, Washington, which shall be available upon request to interested persons.

(4) Additional skills. No osteopathic physician's assistant shall be registered to perform skills not contained in the program approved by the board unless the osteopathic physician's assistant submits with his application a certificate by the program director or other acceptable evidence showing that he or she was trained in the additional skill for which authorization is requested, and the board is satisfied that the applicant has the additional skill and has been properly and adequately tested thereon.

(5) Applications. All applications shall be made to the board on forms supplied by the board. All applications shall be submitted at least 30 days prior to the meeting of the board in which consideration is desired. Applications shall be made jointly by the physician and assistant.

(6) Authorization by board, powers. In granting authorizations for the utilization of the osteopathic physician's assistant, the board may limit the authority for utilizing an osteopathic physician's assistant to a specific task or tasks, or may grant specific approval in conformity with the program approved and on file with the board.

(7) Limitations, number. No osteopathic physician shall supervise more than one osteopathic physician's assistant.

(8) Limitations—Geographic limitations. No osteopathic physician's assistant shall ordinarily be utilized in a place other than the supervising osteopathic physician's regular place for meeting patients, or when personally accompanied by the supervising osteopathic physician. The "regular place for meeting patients" shall be defined to include the physician's office, the institution(s) in which his or her patients are hospitalized or confined, or the homes of patients for whom a physician-patient relationship has already been established.

(9) Limitations—Remote practice. Special permission may be granted to utilize an osteopathic physician assistant in a place remote from the physician's regular place for meeting patients if:

(a) There is a demonstrated need for such utilization;

(b) Adequate provision for immediate communication between the physician and his physician assistant exists;

(c) A mechanism has been developed to provide for the establishment of a direct patient-physician relationship between the supervising osteopathic physician and patients who may be seen initially by the osteopathic physician assistant;

(d) The responsible physician spends at least one-half day per week in the remote office.

(10) Limitations, hospital functions. An osteopathic physician assistant working in or for a hospital, clinic or other health organization shall be registered in the same manner as any other osteopathic physician assistant and his/her functions shall be limited to those specifically approved by the board. His/her responsibilities, if any, to other physicians must be defined in the application for registration.

(11) Limitations, trainees. An individual enrolled in a training program for physician assistants may function only in direct association with his/her preceptorship physician or a delegated alternate physician in the immediate clinical setting or, as in the case of specialized training in a specific area, an alternate preceptor approved by the program. They may not function in a remote location or in the absence of the preceptor.

(12) Supervising osteopathic physician, responsibility. It shall be the responsibility of the supervising osteopathic physician to see to it that:

(a) Any osteopathic physician's assistant employed by him or her at all times when meeting or treating patient(s) wears a placard or other identifying plate in a prominent place upon his or her person identifying him or her as a physician's assistant;

(b) No osteopathic physician's assistant in his employ represents himself or herself in any manner which would tend to mislead anyone that he or she is a physician;

(c) That the osteopathic physician's assistant in his or her employ performs only those tasks which he or she is authorized to perform under the authorization granted by the board;

(d) All EKG's and x-rays and all abnormal laboratory tests shall be reviewed by the physician within 24 hours;

(e) All patient charts and all telephone advice given by the supervising physician shall be documented, reviewed and countersigned by the physician within one week.

(13) Alternate physician, supervisor—Approved by board. In the temporary absence of the supervising osteopathic physician, the osteopathic physician assistant may carry out those tasks for which he is registered, if the supervisory and review mechanisms are provided by a delegated alternate osteopathic physician supervisor. If an alternate osteopathic physician is not available in the community, the board may authorize a physician licensed under chapter 18.71 RCW to act as the alternate physician supervisor.

(14) Reregistration. The annual reregistration fee shall be paid by the first day of July of each year by the supervising osteopathic physician. Any failure to reregister and pay the annual registration fee shall render the registration invalid but registration may be reinstated by payment of a penalty fee together with all delinquent annual registration fees.

**AMENDATORY SECTION** (Amending Order PM 671, filed 10/7/87)

WAC 308-138A-025 OSTEOPATHIC PHYSICIAN'S ASSISTANT PRESCRIPTIONS. An osteopathic physician's assistant may issue written or oral prescriptions as provided herein when approved by the board and assigned by the supervising physician.

(1) Except for schedule two controlled substances as listed under federal and state controlled substances acts, a physician's assistant may issue prescriptions for a patient, who is under the care of the physician responsible for the supervision of the physician's assistant.

(a) Written prescriptions shall be written on the blank of the supervising physician and shall include the name, address and telephone number of the physician. The prescription shall also bear the name and address of the patient and the date on which the prescription was written.

(b) The physician's assistant shall sign such a prescription by signing his or her own name followed by the letters "P.A." and the physician assistant's registration number (~~(for her))~~ of physician assistant drug enforcement administration registration number.

(c) Prescriptions for legend drugs and controlled substances must each be approved or signed by the supervising physician prior to administration, dispensing or release of the medication to the patient, except as provided in (6) of this (~~(rule)~~) section.

(2) A physician's assistant extended privileges by a hospital, nursing home or other health care institution may, if permissible under the by-laws, rules and regulations of the institution, write medical orders, except those for schedule two controlled substances, for inpatients under the care of the physician responsible for his (~~(for her))~~ or her supervision.

(3) To be authorized to issue prescriptions for schedule three through five controlled substances, a physician's assistant must be registered with the board of pharmacy and the drug enforcement administration.

(4) The registration of a physician's assistant who issues a prescription in violation of these provisions shall be subject to revocation or suspension.

(5) Physician's assistants may not dispense prescription drugs to exceed treatment for 48 hours. The medication so dispensed must comply with the state law prescription labeling requirements.

(6) Authority to issue prescriptions without the prior approval or signature of the supervising physician may be granted by the board to an osteopathic physician's assistant who has:

(a) Provided a statement signed by the supervising physician that he or she assumes full responsibility and that he or she will review the physician assistant's prescription writing practice on an ongoing basis;

(b) Passed the National Commission on Certification of Physician Assistants' certification examination;

(c) Had five years experience in primary health care, including the use of prescription drugs;

(d) Presented evidence to the board verifying his or her prescriptive writing experience and ability;

(e) Demonstrated the necessity in the practice for authority to be granted permitting a physician assistant to issue prescriptions without prior approval or signature of the supervising physician.

**WSR 88-03-036**  
**PROPOSED RULES**  
**BOARD OF PHARMACY**  
[Filed January 19, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the state of Washington Board of Pharmacy intends to adopt, amend, or repeal rules concerning procedural rules for the conduct of contested cases under chapter 34.04 RCW; and home dialysis program procedures;

that the agency will at 10:00 a.m., Tuesday, February 24, 1988, in the West Coast Hotel, 18200 Pacific Highway South, 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 18.64.005.

The specific statute these rules are intended to implement is RCW 18.64.005.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 24, 1988.

Dated: January 15, 1988

By: John H. Keith  
Assistant Attorney General  
Board Counsel

**STATEMENT OF PURPOSE**

Name of Agency: Washington State Board of Pharmacy.

Summary, Purpose of Rule and Reason Proposed: WAC 360-08-005 Practice and procedure cross reference, adopted to assist in locating superseding uniform procedural rules. All proposed rule repealers are to conform the board's practice and procedure rules to chapter 10-08 WAC; 360-60-010 Home dialysis program—Legend drugs, lists the legend drugs that may be sold, delivered, dispensed or possessed; 360-60-020 Pharmacist consultant, defines the need for home dialysis program pharmacist consultation; 360-60-030 Records, defines the home dialysis recordkeeping requirement; and 360-60-040 Quality assurance, requires home dialysis programs to have a quality assurance program.

The preceding home dialysis rules are intended to implement RCW 69.41.032.

Statutory Authority: RCW 18.64.005(8).

Responsible Agency Personnel: The board and the executive secretary of the board have responsibility for drafting, implementing and enforcing these rules. The executive secretary is Donald H. Williams, 319 East 7th Avenue, W.E.A. Building, FF-21, Olympia, Washington 98504, phone (206) 753-6834.

Proponents of the Proposed Rule: Washington State Board of Pharmacy.

Federal Law or State or Federal Court Requirements: Not necessitated as a result of federal law or state or federal court action.

Small Business Economic Impact Statement: Not necessary since these rules do not impact small businesses as that term was defined by RCW 43.31.920.

NEW SECTION

WAC 360-08-005 PRACTICE AND PROCEDURE CROSS REFERENCE. In order to conform the board's practice and procedure rules to the uniform procedural rules for the conduct of contested cases, the board has repealed certain practice and procedure rules. The following cross reference will assist in locating the superceding uniform procedural rule.

<u>Repealed Board Rule</u>		<u>Uniform Procedural Rule</u>
WAC 360-08-070	-	WAC 10-08-080
WAC 360-08-080	-	WAC 10-08-040
WAC 360-08-090	-	WAC 10-08-110
WAC 360-08-100	-	WAC 10-08-110
WAC 360-08-110	-	WAC 10-08-110
WAC 360-08-120	-	WAC 10-08-110
WAC 360-08-130	-	WAC 10-08-110
WAC 360-08-140	-	WAC 10-08-110
WAC 360-08-410	-	WAC 10-08-210
WAC 360-08-430	-	WAC 10-08-130
WAC 360-08-440	-	WAC 10-08-130
WAC 360-08-450	-	WAC 10-08-140
WAC 360-08-460	-	WAC 10-08-140
WAC 360-08-510	-	WAC 10-08-090

**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 sections of the Washington Administrative Code are hereby repealed:

WAC 360-08-030	APPEARANCE AND PRACTICE BEFORE BOARD—SOLICITATION OF BUSINESS UNETHICAL
WAC 360-08-070	COMPUTATION OF TIME
WAC 360-08-080	NOTICE AND OPPORTUNITY FOR HEARING IN CONTESTED CASES
WAC 360-08-090	SERVICE OF PROCESS—BY WHOM SERVED
WAC 360-08-100	SERVICE OF PROCESS—UPON WHOM SERVED
WAC 360-08-110	SERVICE OF PROCESS—SERVICE UPON PARTIES
WAC 360-08-120	SERVICE OF PROCESS—METHOD OF SERVICE
WAC 360-08-130	SERVICE OF PROCESS—WHEN SERVICE COMPLETE
WAC 360-08-140	SERVICE OF PROCESS—FILING WITH THE BOARD
WAC 360-08-410	FORM AND CONTENT OF DECISIONS IN CONTESTED CASES
WAC 360-08-430	PREHEARING CONFERENCE RULE—AUTHORIZED
WAC 360-08-440	PREHEARING CONFERENCE RULE—RECORD OF CONFERENCE ACTION
WAC 360-08-450	SUBMISSION OF DOCUMENTARY EVIDENCE IN ADVANCE
WAC 360-08-460	EXCERPTS FROM DOCUMENTARY EVIDENCE
WAC 360-08-470	EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—NUMBER AND QUALIFICATIONS OF WITNESS
WAC 360-08-480	EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—WRITTEN SWORN STATEMENTS
WAC 360-08-490	EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—SUPPORTING DATA
WAC 360-08-500	EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—EFFECT OF NONCOMPLIANCE WITH WAC 360-08-470 or 360-08-480
WAC 360-08-510	CONTINUANCES

NEW SECTION

WAC 360-60-010 HOME DIALYSIS PROGRAM—LEGEND DRUGS. Pursuant to RCW 18.64.257 and RCW 69.41.032, a Medicare-approved dialysis center or facility operating a Medicare-approved home dialysis program may sell, deliver, possess and/or dispense directly to its home dialysis patients in cases or full shelf package lots, if prescribed by a physician, the following legend drugs:

- Sterile heparin, 1000u/ml, in vials;
- Sterile potassium chloride, 2mEq/ml, for injection;
- Commercially available dialysate; and,
- Sterile sodium chloride, 0.9%, for injection in containers of not less than 150ml.

NEW SECTION

WAC 360-60-020 PHARMACIST CONSULTANT. Home dialysis programs involved in the distribution of legend drugs as permitted by RCW 18.64.257 and RCW 69.41.032, shall have an agreement with a pharmacist which provides for consultation as necessary. This shall include advice on the drug distribution process to home dialysis patients and on the location used for storage and distribution of the authorized drugs, which shall be reasonably separated from other activities and shall be secure.

NEW SECTION

WAC 360-60-030 RECORDS. (1) A record of shipment shall be attached to the prescriber's order and shall include: the name of the patient, strengths, and quantities of drugs; the manufacturers' names; date of shipment; names of persons who selected, assembled and packaged for shipment; and, the name of the pharmacist or designated individual responsible for the distribution.

(2) Prescription and drug distribution records shall be maintained in accordance with Board of Pharmacy record retention requirements.

NEW SECTION

WAC 360-60-040 QUALITY ASSURANCE. Home dialysis programs involved in the distribution of legend drugs as permitted by RCW 18.64.257 and RCW 69.41.032, shall develop a quality assurance program for drug distribution and shall maintain records of drug distribution errors and other problems, including loss due to damage or theft.

**WSR 88-03-037****ADOPTED RULES****DEPARTMENT OF LICENSING**

[Order BLS 115—Filed January 19, 1988]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt the annexed rules relating to Uniform Commercial Code field access, new sections WAC 308-410-010, 308-410-020, 308-410-030, 308-410-040, 308-410-050, 308-410-060 and 308-410-070.

This action is taken pursuant to Notice No. WSR 87-24-098 filed with the code reviser on December 2, 1987. 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 62A.9-409, 60.11.040(3) and 60.13.040, as amended by section 7, chapter 189, Laws of 1987, 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 January 8, 1988.

By Theresa Anna Aragon  
Director

TITLE 308 WAC  
UNIFORM COMMERCIAL CODE FIELD ACCESS  
Chapter 308-410 - Field Access

NEW SECTION

WAC 308-410-010 PURPOSE AND AUTHORITY. These rules are adopted under the authority of RCW 62A.9-409(1), RCW 60.11.040(3) and RCW 60.13.040 as amended by section 7, chapter 189, Laws of 1987. These rules pertain to "field access" to the computerized system which allows users direct access to the uniform commercial code computerized files.

NEW SECTION

WAC 308-410-020 DEFINITIONS. (1) "Field Access" means the review of computerized uniform commercial code filing information and requesting of certified searches by electronic mail from a location outside an established department of licensing uniform commercial code central filing location.

(2) "User" means a search company, lending institution, business, agency or person who has established by contract with the department the privilege of using the field access system.

(3) "Uniform Commercial Code Central Filing Location" means a location designated by the director of the department of licensing to serve as a centralized repository for filing, indexing, amending, terminating and furnishing information about uniform commercial code filing, processor, preparer and crop lien filings and other related filing information.

(4) "Electronic Mail" means the transmission of information or reproductions from one computer terminal to another using surface transmission lines or satellite stations.

(5) "Certified Search" means a certified document issued by the department of licensing upon the request and payment of fees by a requester stating whether there is on file with the department, on the date and hour stated on the certificate, any presently effective uniform commercial code filing information involving a named debtor or numbered account.

NEW SECTION

WAC 308-410-030 FILING INFORMATION AVAILABLE FOR REVIEW. All computerized filing information is available for review by the uniform commercial code field access user. Filing information may be reviewed by debtor name or by filing number.

NEW SECTION

WAC 308-410-040 APPLICATION TO BECOME A USER. Persons or agencies wishing to apply to become a user of the field access program must contact the uniform commercial code section of the department of licensing for application information.

NEW SECTION

WAC 308-410-050 STANDARD FOR ALLOCATING USERS. The standard for allocating users of the field access system will be on a first come, first served basis proportionately distributed between eastern and western Washington. The department reserves the right to determine when the field access system has reached its maximum user capacity, at which time no additional users will be allocated until system space becomes available.

NEW SECTION

WAC 308-410-060 CONTRACT FOR USE. The conditions and provisions for use must be established by contract between the department and the user.

NEW SECTION

WAC 308-410-070 FEES. The fees for use of the uniform commercial code field access system shall be based on the established rate per hour for use of main-frame computer time. The fee for access to the uniform commercial code field access system shall be based on the prevailing rate for surface transmission telephone line use. The specific fees for access and use shall be contained in the user contract.

**WSR 88-03-038**

**ADOPTED RULES**

**DEPARTMENT OF LICENSING**

[Order DLR-162—Filed January 19, 1988]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to WAC 308-90-030, 308-90-040, 308-90-060, 308-90-070, 308-90-080, 308-90-090, 308-90-110, 308-90-120, 308-90-130, 308-90-140, 308-90-150 and 308-90-160.

This action is taken pursuant to Notice No. WSR 87-23-023 filed with the code reviser on November 12, 1987. 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 SSB 5515, section 1(1), which directs that the Department of Licensing has authority to implement the provisions of SSB 5515.

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 January 15, 1988.

By Theresa Anna Aragon  
Director

AMENDATORY SECTION (Amending Order 722 DOL, filed 7/1/83)

WAC 308-90-030 DEFINITIONS. (1) ~~((Words and terms used in these rules have the same meaning as~~

each has under chapter 7, Laws of 1983 unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicate that they be given some other meaning.

(2) "Person" includes every natural person, firm, co-partnership, corporation, association or organization.

(3) "Branch location" means any place of business of a dealer which is physically and geographically separated from the principal place of business and has the appearance of being a separate business. "Firm" means a person, partnership, association or corporation engaged in the business of selling vessels at retail or wholesale in this state.

(2) "Display decal" means a vessel dealer identifier designed and produced by the department which is used by Washington registered vessel dealers.

(3) "Identification card" is a card that may be issued by a firm identifying a person as authorized to operate vessels for vessel dealer business.

(4) "Bona fide employee" is a person who works for the firm and appears on the firm's employment records.

(5) "Consignment" means an arrangement whereby a vessel dealer accepts entrustment of a vessel and agrees to sell the vessel on behalf of another.

(6) "Listing" means an arrangement whereby the seller will compensate the vessel dealer to obtain a willing purchaser for the seller's vessel.

(7) "Broker" means a vessel dealer who arranges the sale between the buyer and seller of a vessel and receives a form of compensation.

#### AMENDATORY SECTION (Amending Order 722 DOL, filed 7/1/83)

WAC 308-90-040 DEALER REGISTRATION APPLICATION FORM. (1) Any ((person)) firm making application for registration ((for)) as a vessel dealer under chapter ((7, Laws of 1983)) 88.02 RCW shall, on a form provided by the ((director)) department, provide the following information:

(a) The name((, business name)) and ((principal place of)) business address of the ((applicant)) firm and a list of additional business addresses of the firm, if any.

(b) The name ((and resident address)) of all owners of ten percent or more of the assets of the firm and title(s) of office held, if any.

(c) ((The name and resident address of the managing employee.

(d)) The ((applicant's form)) firm's business structure and place of organization.

((c)) That the applicant's business may be lawfully carried on in accordance with all applicable building codes, zoning and other land use regulations.)) (d) The business registration number issued by the department of revenue.

#### AMENDATORY SECTION (Amending Order 722 DOL, filed 7/1/83)

WAC 308-90-060 DISPLAY OF REGISTRATION. (1) The registration of a dealer shall be prominently displayed, visible to the public at the address appearing on the registration.

(2) A copy of the vessel dealer registration shall be displayed as in subsection (1) of this section at all business locations of the firm.

#### AMENDATORY SECTION (Amending Order 722 DOL, filed 7/1/83)

WAC 308-90-070 DEALER REGISTRATION NUMBERS. (1) The ((director)) department shall assign a registration number for each ((applicant)) firm registered as a dealer. The registration number shall be consistent with the standard numbering system for vessels set forth in volume 33, part 174, of the Code of Federal Regulations. (Example: WN 7XXX DA)

((+)) (2) The dealer's registration number shall be displayed on all vessels owned by the dealer ((and:

(a) Used for a business purpose of the dealer, but not for use on loaned vessels or vessels rented or leased on a regular commercial basis;

(b) Held as a demonstration or inventory vessel;

(c) Held for the purpose of testing or making repairs.

(2) Rented, loaned or leased vessels shall be registered separately and display separate registration numbers pursuant to chapter 7, Laws of 1983)) when being operated on the water pursuant to RCW 88.02.023.

(3) The vessel dealer shall display his/her registration number in three inch block numbers/letters on both sides of the forward one-half of the vessel. The registration number may be permanently fixed to the vessel or to a removable display fixture. The numbers/letters shall be displayed in a single line.

#### AMENDATORY SECTION (Amending Order 722 DOL, filed 7/1/83)

WAC 308-90-080 REGISTRATION FEE—RENEWAL. (1) Any ((person)) firm desiring to be a dealer must include with the application ((a)) the required registration fee ((of twenty-five dollars)). ((Every registration issued under the provisions of chapter 7, Laws of 1983 expires on the date one year from the date of issue which date will henceforth be the renewal date. An))

(2) Vessel dealers will reapply for a registration on or before the expiration of their registration.

(3) The annual registration renewal fee ((in the same amount)) must be paid on or before each renewal date. If an application for renewal is not received by the ((director)) department on or before the ((renewal date)) last day of the expiration month the registration is expired. The registration may be reinstated at any time within the next succeeding thirty days ((upon)) if renewal application and payment of the annual renewal fee then in default is received by the department. Registrations not renewed within thirty days of the renewal date then in default shall be cancelled. A new registration may be obtained by satisfying the procedures and qualifications for initial registration.

((+)) (4) If no department denial action is pending, the ((director)) department shall issue a vessel dealer registration and renewal decals depicting the expiration of the registration upon receipt of a dealer's renewal fee and renewal application. The dealer shall affix the decal as a prefix to the dealer registration number ((then in

~~effect as displayed on the dealer's vessels)) on any ves-~~  
sels operated on the waters pursuant to RCW 88.02.023.

AMENDATORY SECTION (Amending Order 722  
 DOL, filed 7/1/83)

WAC 308-90-090 CHANGE OF BUSINESS LO-  
 CATION. The dealer shall notify the ((director)) de-  
partment of any change of the firm's business location or  
 mailing address prior to engaging in business at the new  
 location. Notification shall be made by filing a change of  
 address application on a form provided by the ((direc-  
 tor)) department accompanied by the return of the reg-  
 istration issued to the former location or address. The  
vessel dealer will provide a list of all business locations  
of the firm when changing the business address of the  
firm's office.

AMENDATORY SECTION (Amending Order 722  
 DOL, filed 7/1/83)

WAC 308-90-110 STATEMENT OF CHANGE  
 IN BUSINESS STRUCTURE, OWNERSHIP IN-  
 TEREST OR CONTROL. Any person, firm, associa-  
 tion, corporation or trust registered as a dealer must,  
 within ten days following any change in its business or  
 ownership structure, file a statement describing with  
 particularity the change effected in its business structure  
 or the change in ownership interest. In addition, persons  
 newly assuming executive or control functions, including  
 but not limited to new corporate officers, directors, ma-  
 jority stockholders, managing partners, managing ((em-  
 ployee or)) trustees, must file within ten days of assum-  
 ing such function.

NEW SECTION

WAC 308-90-120 TRUST ACCOUNT. (1) The  
 dealer's separate trust account cannot accrue interest.

(2) Any fees assessed by the depository against the  
 trust account shall not be paid from purchasers trust  
 funds.

NEW SECTION

WAC 308-90-130 CONSIGNMENT. (1) All pur-  
 chasers funds received, including deposits or payments or  
 proceeds from the sale of trade-in vessels on a consign-  
 ment sale, shall be placed in the vessel dealers trust ac-  
 count as required in section 11, chapter 149, Laws of  
 1987, and said funds shall remain in such trust account  
 until the consignor's and the legal owner's interest, if  
 any, have been fully satisfied.

(2) The sale of a consigned vessel by a vessel dealer is  
 a retail sale and the dealer is required to transfer title as  
 found in section 8, chapter 149, Laws of 1987.

NEW SECTION

WAC 308-90-140 LISTING. (1) All purchasers  
 funds received, including deposits or payments or pro-  
 ceeds from the sale of trade-in vessels on a listing sale  
 shall be placed in the vessel dealers trust account as re-  
 quired in section 11, chapter 149, Laws of 1987, and

said funds shall remain in such trust account until the  
 listed vessel sale is completed.

(2) At the time the sale closes and at vessel delivery  
 the listing dealer shall pay any outstanding liens from  
 trust funds in order to obtain title for transfer.

(3) The sale of a listed vessel by a vessel dealer is a  
 retail sale and the vessel dealer is required to transfer  
 title as provided in section 8, chapter 149, Laws of 1987.

NEW SECTION

WAC 308-90-150 TITLE TRANSFER. (1) The  
 vessel dealer is required to make application for title in  
 the purchaser's name within fifteen days following the  
 sale of the vessel.

(2) The vessel dealer or the dealer's authorized agent  
 shall sign or type his/her firm name and vessel dealer  
 number on the purchaser's application for title. If an  
 authorized agent signs for the dealer the agent shall give  
 their title.

NEW SECTION

WAC 308-90-160 BOND EXEMPTION. (1) Ap-  
 plicants or registered vessel dealers desiring to be ex-  
 empt from the bonding requirement must provide a  
 statement that they sell fifteen or fewer vessels per year  
 having a retail value of not more than two thousand  
 dollars each.

(2) Registered vessel dealers who have stated that  
 they qualify for the exemption shall immediately file the  
 required surety bond with the department at the time  
 their sales exceed the statutory exemption number or  
 value. Failure to file the bond will subject the vessel  
 dealer to penalties prescribed in section 12, chapter 149,  
 Laws of 1987.

REPEALER

The following sections of the Washington Adminis-  
 trative Code are repealed:

WAC 308-90-010 PROMULGATION  
 AUTHORITY.

WAC 308-90-020 ORGANIZATION.

WAC 308-90-050 BRANCH LOCATION—SEP-  
 ARATE REGISTRATION.

**WSR 88-03-039**

**PROPOSED RULES**

**DEPARTMENT OF PERSONNEL**

**(Personnel Board)**

[Filed January 19, 1988]

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

Amd WAC 356-30-260 Probationary period—Provisions—Stat-  
 us of employee.

Amd WAC 356-30-305 Trial service period—Provision;

that the agency will at 10:00 a.m., Thursday, Febru-  
 ary 11, 1988, in the Board Hearings Room, Department

of Personnel, 600 South Franklin, Olympia, 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 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 February 9, 1988.

This notice is connected to and continues the matter in Notice No. WSR 88-01-070 filed with the code reviser's office on December 18, 1987.

Dated: January 14, 1988

By: Leonard Nord  
Secretary

**WSR 88-03-040**  
**ADOPTED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**

[Order 289—Filed January 19, 1988—Eff. March 1, 1988]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 600 South Franklin, Board Hearings Room, Olympia, WA, that it does adopt the annexed rules relating to disciplinary action, new WAC 356-05-123.

This action is taken pursuant to Notice No. WSR 88-01-067 filed with the code reviser on December 18, 1987. These rules shall take effect at a later date, such date being March 1, 1988.

This rule is promulgated pursuant to RCW 41.06.150 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 14, 1988.

By Leonard Nord  
Secretary

**NEW SECTION**

WAC 356-05-123 DISCIPLINARY ACTION. A demotion, suspension, reduction in salary, or dismissal of a permanent employee for cause as specified in WAC 356-34-010.

**WSR 88-03-041**  
**ADOPTED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**

[Order 290—Filed January 19, 1988—Eff. March 1, 1988]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 600 South Franklin, Olympia, WA, that it does adopt the annexed rules relating to resignation, amending WAC 356-05-360.

This action is taken pursuant to Notice No. WSR 87-24-021 filed with the code reviser on November 24, 1987. These rules shall take effect at a later date, such date being March 1, 1988.

This rule is promulgated pursuant to RCW 41.06.150 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 14, 1988.

By Leonard Nord  
Secretary

**AMENDATORY SECTION** (Amending Order 209, filed 8/10/84)

WAC 356-05-360 RESIGNATION. A voluntary separation from state employment.

**WSR 88-03-042**  
**ADOPTED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**

[Order 291—Filed January 19, 1988—Eff. March 1, 1988]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 600 South Franklin, Olympia, WA, that it does adopt the annexed rules relating to:

New WAC 356-46-125 Drug testing—Limitations—Uses.  
New WAC 356-05-128 Drug test.

This action is taken pursuant to Notice No. WSR 87-01-068 [88-01-068] filed with the code reviser on December 18, 1987. These rules shall take effect at a later date, such date being March 1, 1988.

This rule is promulgated pursuant to RCW 41.06.150 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 14, 1988.

By Leonard Nord  
Secretary

NEW SECTION

WAC 356-05-128 DRUG TEST. Any blood, urine or other test designed to identify the presence in the body of controlled substances referenced under Chapter 69.50 RCW.

NEW SECTION

WAC 356-46-125 DRUG TESTING—LIMITATIONS—USES. (1) Except as provided in subsection (2) of this section, no agency may perform or cause to be performed a drug test of any employee or prospective employee.

(2) An agency may require a specific employee to submit to drug testing designed to identify the presence in the body of controlled substances referenced under Chapter 69.50 RCW, other than drugs prescribed by a physician, if:

(a) The agency has specific, objective grounds stated in writing to believe the employee's work performance is impaired due to the presence of such substances in the body; and

(b) the employee is in a position where such impairment presents a danger to the physical safety of the employee or another; and

(c) the agency has a specific written policy authorizing such test, establishing procedures under which they may be conducted, and protecting the confidentiality of the results, provided the results may be disclosed in an action or proceeding challenging any disciplinary action arising from the incident which led to the test. The agency's proposed policy must be submitted to the affected exclusive bargaining representative or representatives and approved by the director of the department of personnel before implementation.

(3) An employee who is found to be impaired on the job due to the use of controlled substances may be subject to disciplinary action in accordance with existing laws and regulations, but the results of such drug test shall provide no additional or independent basis for disciplinary action.

(4) In the event an employee is found to have used controlled substances, the agency shall inform the employee of available assistance through the employee advisory service or other similar program.

(5) Nothing herein shall prevent an agency from conducting medical screening to monitor exposure to toxic or other unhealthy substances in the work place, provided such screenings are limited to the specific substances reasonably believed to be present.

(6) Except as expressly set forth above, nothing herein shall add to or detract from any agency authority under Chapter 41.06 RCW or regulations of the state personnel board to establish job performance standards, or conditions of employment, or to base continued employment on satisfactory job performance.

## WSR 88-03-043

## ADOPTED RULES

DEPARTMENT OF PERSONNEL  
(Personnel Board)

[Order 292—Filed January 19, 1988—Eff. March 1, 1988]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 600 South Franklin, Olympia, WA, that it does adopt the annexed rules relating to:

Amd	WAC 356-34-020	Reduction in salary—Demotion—Procedure.
Amd	WAC 356-34-030	Suspension—Duration—Procedure.
Amd	WAC 356-34-040	Dismissal—Procedure.
Amd	WAC 356-34-050	Suspension—Followed by dismissal—Procedure.
New	WAC 356-34-045	Notice to employee.

This action is taken pursuant to Notice No. WSR 88-01-071 filed with the code reviser on December 18, 1987. These rules shall take effect at a later date, such date being March 1, 1988.

This rule is promulgated pursuant to RCW 41.06.150 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 14, 1988.

By Leonard Nord  
Secretary

AMENDATORY SECTION (Amending Order 186, filed 6/17/83)

WAC 356-34-020 REDUCTION IN SALARY—DEMOTION—PROCEDURE. Appointing authorities may reduce the salary of a permanent employee within the range or may demote an employee to a position at a lesser pay range, in lieu of dismissal for cause, as specified in these rules. The specified charges for either of these actions shall be furnished in writing to the employee ((and a copy filed with the personnel appeals board)) at least 15 calendar days prior to the effective date of the action. The employee must meet the minimum qualifications for the class to which being demoted.

AMENDATORY SECTION (Amending Order 186, filed 6/17/83)

WAC 356-34-030 SUSPENSION—DURATION—PROCEDURE. Appointing authorities may suspend a permanent employee without pay for cause as specified in these rules ((for a period)). The period of suspension shall not ((exceeding +5)) exceed fifteen calendar days ((as)) for a single penalty((:)) or for a total of 30 calendar days in any calendar year as ((an accumulation)) a result of several penalties per RCW 41.06-.170. The specified charges and duration of the action shall be furnished in writing to the employee ((with a copy submitted to the personnel appeals board)) not later than one calendar day after the suspension becomes

effective. A copy shall be submitted to the director of personnel. Notice to the employee shall be made in the manner described in ~~((these rules))~~ WAC 356-34-045. No qualifying time or seniority shall be denied for any period of suspension.

**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.

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

**AMENDATORY SECTION** (Amending Order 186, filed 6/17/83)

WAC 356-34-040 ~~DISMISSAL—((PROCEDURE))~~ NOTIFICATION. ~~((+))~~ Appointing authorities may dismiss a permanent employee for cause as specified in these rules. The employee shall be furnished with the specified charges in writing at least ~~((+5))~~ fifteen calendar days prior to the effective date of the action.

~~((2))~~ ~~The notification shall be furnished directly to the employee during working hours or if this is not possible because the employee works in a branch office or remote location or is absent on a regularly scheduled working day, mailed by certified letter to the employee's last known address. A copy of the specified letter to the employee's last known address. A copy of the specified charges shall be submitted to the personnel appeals board at the same time.)~~

**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.

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

**NEW SECTION**

WAC 356-34-045 NOTICE TO EMPLOYEE. The written notice to the employee required in WAC 356-34-020, 356-34-030, 356-34-040, and 356-34-050 shall be furnished directly to the employee during employee's working hours. If this is not possible because the employee works in a branch office or remote location or is absent on the employee's regularly scheduled work day, a certified letter may be mailed to the employee's last known address. If the notification is furnished directly to the employee, the day it is furnished shall be counted as a day of notice. If a certified letter is mailed, the notice shall be considered received the same day as it is postmarked.

**AMENDATORY SECTION** (Amending Order 87, filed 5/4/76, effective 6/5/76)

WAC 345-34-050 SUSPENSION—FOLLOWED BY DISMISSAL((=PROCEDURE)). (1) A permanent employee who is to be dismissed for cause may be suspended without pay for the period between the notice to dismiss and the effective date of the dismissal~~((;))~~ if

the appointing authority believes the good of the service requires the immediate separation of the employee.

(2) The appointing authority, when applying an immediate suspension followed by dismissal, shall notify the employee in writing~~((;))~~ of such combined actions, as provided in WAC ~~356-34-030, 356-34-040, ((of such combined action))~~ and 356-34-045. The notification shall state the justification for immediate removal from staff in addition to the specified causes for dismissal.

**Reviser's note:** The amendatory section above was filed by the agency as WAC 345-34-050. However, the other rules for the Department of Personnel are found in Title 356 WAC. The section amended above appears to be WAC 356-34-050, but pursuant to the requirements of RCW 34.08.040, it is published in the same form as filed by the agency.

**WSR 88-03-044**

**PROPOSED RULES**

**SEATTLE COMMUNITY COLLEGE DISTRICT**

[Filed January 19, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Seattle Community College District intends to adopt, amend, or repeal rules concerning student complaints, WAC 132F-120-090;

that the institution will at 2:00 p.m., Tuesday, February 23, 1988, in the Seattle Community College District Office Conference Room, 300 Elliott Avenue West, Seattle, WA 98119, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 1, 1988.

The authority under which these rules are proposed is chapters 28B.50 and 28B.19 RCW.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before March 1, 1988.

Dated: January 15, 1988

By: Donald G. Phelps  
Chancellor

**STATEMENT OF PURPOSE**

Title and Number of Rule Chapters: WAC 132F-120-090 Student complaints.

Statutory Authority: RCW 28B.50.140(13).

Specific Statute that Rule is Intended to Implement: Chapter 28B.50 RCW.

Summary of the Rules: Establishes a process whereby students may file a complaint against any member of the college community.

Reasons Supporting Proposed Action: Certain issues were raised concerning the student complaints procedure, and several changes have been made for implementation.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dr. Donald G. Phelps, Chancellor and Secretary to the Board of Trustees of Seattle Community College District VI, 300 Elliott Avenue West, Seattle, WA 98119.

Name of the Person or Organization Whether Private, Public or Governmental, that is Proposing the Change:

Seattle Community College District VI board of trustees.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: None.

This rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small business economic impact statement is not applicable.

AMENDATORY SECTION (Amending Order 42, Resolution No. 1984-1, filed 1/12/84)

WAC 132F-120-090 STUDENT COMPLAINTS. Seattle Community College District shall establish a process whereby students may file a complaint against any member of the college community. Students who feel they have a complaint relating to an action by a member of the college community have the following procedure available:

(1) When a student has a complaint, he/she is encouraged first to consult with the person involved before initiating a complaint.

(2) When the student determines the complaint may be handled more appropriately without the person's involvement, a student may consult with a counselor to assist in determining the appropriate course of action or the student may contact the head of the appropriate division/department or ~~((its))~~ the college's designated complaints officer.

(3) When complaints ~~((filed with))~~ made to the head of the appropriate division/department have not been resolved, the student may bring the complaint to the complaints officer ~~((designated by the president))~~ for further action.

(4) The designated complaints officer shall discuss the concerns outlined by the student and the options available for resolution. Should the student elect to proceed with a formal complaint, the concerns must be outlined in writing, specifying the complaint and identifying dates and persons involved as accurately as possible.

(a) When the written complaint is filed with the designated complaints officer, it shall be forwarded within ~~((ten instructional))~~ fifteen calendar days to the appropriate division/department head and other persons named in the complaint for response, within ~~((ten instructional))~~ fifteen calendar days.

(b) Should the written response not resolve the complaint, then a conference shall be convened by the designated complaints officer among all parties involved, within ~~((ten instructional))~~ fifteen calendar days, for the purpose of achieving a resolution of the complaint.

(c) The designated complaints officer shall keep all written statements, transcripts, and minutes associated with the complaint as part of the confidential files of the campus.

(d) If the conference ~~((resolutions do))~~ does not ~~((satisfy the complainant))~~ resolve the complaint, the designated complaints officer shall notify the appropriate dean and forward the complaint for resolution within five calendar days.

(5) The appropriate dean shall review the minutes, transcripts, and other pertinent statements and discuss the complaint with the parties involved. If complaints filed with the dean have not been resolved, the dean shall ~~((then))~~ within fifteen calendar days issue a recommendation to the president which offers a resolution to the complaint.

(6) The recommendations of the dean shall be reviewed by the president who may amend, modify, reverse or accept the recommendations, and who shall then implement the resolution of the complaint within thirty calendar days, in the absence of an appeal.

(7) ~~((Appeals or formal hearings to the board of trustees shall not be provided:))~~ Within fifteen calendar days following receipt of a written decision by the president, the complainant may appeal to the district president, who may amend, modify, reverse, or concur in the decision. The district president shall, within fifteen calendar days of receiving the appeal, direct the college president to implement the resolution of the complaint. The decision of the district president shall be final.

(8) No complaints requesting a grade review will be considered after two consecutive quarters, not to include summer quarter, from the date of issue for that grade. Student complaints related to grades shall be reviewed as follows:

(a) Students are encouraged to consult with the instructor before initiating a grade review process as outlined in this procedure.

(b) The student shall indicate the grade received in the course together with the reason for the complaint, specifying as accurately as possible all pertinent performance scores and attendance data. This information shall be filed in writing with the designated complaints officer.

(c) When the complaint has been received by the designated complaints officer, it shall be forwarded to the division/department administrator and the course instructor who reported the grade for the instructor's review and possible adjustment.

(d) The course instructor shall reply in writing, indicating the basis on which the decision was made and include the grade reported for the student, the evaluation criteria for the course, and the performance scores and attendance data achieved by the student in that course. The decision is transmitted to the student through the complaints officer with whom the complaint was initially filed.

(e) Ordinarily, the above process of review should be sufficient, but if the student feels there were extenuating circumstances, a conference may be requested with the division/department administrator, the course instructor and the complaints officer. The conference shall investigate the circumstances of performance in the course and determine appropriate adjustments if warranted.

(f) Since the evaluation of the extent of course mastery is exclusively within the province of the instructor for a particular course, any adjustments or grade changes may be initiated only by that instructor or, under proven extenuating circumstances, by the appropriate dean of instruction, upon approval by the president.

WSR 88-03-045

PROPOSED RULES

WALLA WALLA COMMUNITY COLLEGE

[Filed January 19, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Community College District No. 20, Walla Walla Community College, intends to adopt, amend, or repeal rules concerning definition of professional improvement units, WAC 132T-05-060;

that the institution will at 1:00 p.m., Wednesday, March 2, 1988, in the Board Room at Walla Walla Community College, 500 Tausick Way, Walla Walla, 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 chapters 34.04, 34.08, 28B.19 RCW and chapter 1-13 WAC.

The specific statute these rules are intended to implement is RCW 28B.50.090 (7)(a).

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before March 2, 1988.

Dated: January 13, 1988

By: Steven L. VanAusdler  
Secretary, Board of Trustees

#### STATEMENT OF PURPOSE

Identification of Amended Rule: WAC 132T-05-060  
Definition of professional improvement units.

Statutory Authority: Chapters 34.04, 34.08, 28B.19 RCW and chapter 1-13 WAC statutorily grant the authority for District No. 20 as an institution of higher education to amend, repeal or create rules.

**Purpose and Reason for Rule:** To change the definition of professional improvement units earned as a result of participation in conferences and seminars from forty hours of accumulated participation equals one professional improvement unit to twenty hours of accumulated participation equals one professional improvement unit. This change will bring Walla Walla Community College District No. 20 into agreement with WAC 131-16-094 regarding the definition of professional improvement units. It will also provide greater incentive for faculty to participate in professional development activities.

**Summary of the Rule:** WAC 132T-05-060(3) may be summarized as a definition of professional improvement units earned as a result of participation in conferences and seminars.

**Institution Personnel Responsible for Rule:** The president and director of Vocational Education of Walla Walla Community College, 500 Tausick Way, Walla Walla, Washington, phone 527-4274, are responsible for the drafting, implementation and enforcement of the rule.

This amendment is not necessary as a result of federal law, federal court decision, or state court decision.

Chapter 132T-05 WAC  
FACULTY QUALIFICATIONS

WAC

132T-05-020	General standards of qualifications for community college personnel.
132T-05-030	Additional qualifications in areas of specialization.
132T-05-040	Maintaining and improving occupational and teaching competencies for vocational administrators, instructors and counselors.
132T-05-050	Types of vocational education certificates.
132T-05-060	Definition of professional improvement units.
132T-05-070	Safety and occupational health practices standards.

AMENDATORY SECTION (Amending Resolution No. 82-5, filed 3/8/82)

WAC 132T-05-060 **DEFINITION OF PROFESSIONAL IMPROVEMENT UNITS.** The following standards shall be used in the determination of professional improvement unit values for vocational certification by Community College District No. 20.

(1) Each forty hours of planned, preapproved paid work experience shall be equal to one professional improvement unit.

(2) One credit on the quarter system or two-thirds credit on the semester system earned in accredited programs at colleges or universities shall be equal to one professional improvement unit, provided it is in compliance with the professional improvement plan.

(3) Each (~~full day~~) accumulated twenty hours of preplanned participation in conferences and seminars shall be equal to (~~20 of a~~) one professional improvement unit, provided that such activities are in addition to those covered by the normal contractual obligations.

(4) Each day of preplanned experience in either domestic or foreign travel related to the individual's instructional area shall be equal to .20 of a professional improvement unit.

(5) Additional professional improvement units may be granted as approved in the individual improvement plan on the basis of independent research and development activities in excess of the normal contractual obligations of the instructor, counselor, or administrator.

(6) The vocational director shall be responsible for the approval of professional improvement plans, equivalencies, and units as stated in WAC 132T-05-040, 132T-05-050, and 132T-05-060.

WSR 88-03-046

PROPOSED RULES

WALLA WALLA COMMUNITY COLLEGE

[Filed January 19, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Community College District No. 20, Walla Walla Community College, intends to adopt, amend, or repeal rules concerning reduction in force for classified personnel, chapter 132T-128 WAC;

that the institution will at 1:00 p.m., Wednesday, March 2, 1988, in the Board Room at Walla Walla Community College, 500 Tausick Way, Walla Walla, 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 28B.50.140, chapters 34.04, 34.08, 28B.16, 28B.19 RCW and chapter 1-13 WAC.

The specific statute these rules are intended to implement is RCW 28B.50.140, chapter 28B.16 RCW and WAC 251-10-030.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before March 2, 1988.

Dated: January 14, 1988

By: Steven L. VanAusdle  
Secretary, Board of Trustees

STATEMENT OF PURPOSE

**Identification of Proposed Rules:** The following sections are repealed, WAC 132T-128-010 Purpose of rules; 132T-128-020 Definitions; 132T-128-030 Initial procedures for reduction in force; 132T-128-040 Initial order of layoff; 132T-128-050 Options in lieu of layoff; 132T-128-060 Procedures for establishing order of layoff and notice of requirements; 132T-128-070 Distribution of layoff notice; 132T-128-080 Reemployment rights of laid off employees; and 132T-128-090 Special employment programs.

**Statutory Authority:** RCW 28B.50.140, chapters 28B.16, 28B.19, 34.04, 34.08 RCW and chapter 1-13 WAC statutorily grant the authority for District No. 20 as an institution of higher education to amend, repeal, or create rules.

**Purpose and Reason for Repeal of Rules:** Rules are unnecessary and repeal will eliminate conflict with Higher Education Personnel Board, chapter 251-10 WAC.

**Summary of Rules:** The rules and regulations of the Higher Education Personnel Board govern classified employees at Walla Walla Community College. Each time the Higher Education Personnel Board amends a rule under chapter 251-10 WAC, it necessitates a rule amendment in chapter 132T-128 WAC. The reduction in force process will be embodied in procedures rather than in WAC form. This will eliminate the codifying process, which is cumbersome and slow to make modifications to reflect the current rules and laws.

The president of Walla Walla Community College, 500 Tausick Way, Walla Walla, Washington, phone

527-4274 and the personnel director, phone 527-4300, are responsible for the repealing of this rule, chapter 132T-128 WAC, Reduction in force for classified personnel.

This repeal is not necessary as a result of federal laws, federal court decisions, or state court decisions.

Dated: January 15, 1988  
By: Edward M. Command  
Vice President

WAC 132I-14

STUDENT RIGHTS AND RESPONSIBILITIES CODE

REPEALER

The following sections of the Washington Administrative Code are each repealed:

- WAC 132I-14-010 STATEMENT OF PURPOSE
- WAC 132I-14-020 GENERAL POLICIES
- WAC 132I-14-030 DEFINITIONS
- WAC 132I-14-040 RIGHT OF ACADEMIC FREEDOM
- WAC 132I-14-050 RIGHT OF ACCESS TO COLLEGE FACILITIES
- WAC 132I-14-060 RIGHT OF ASSEMBLY
- WAC 132I-14-070 RIGHT TO INVITE OUTSIDE SPEAKERS
- WAC 132I-14-080 RIGHT OF PUBLICATION
- WAC 132I-14-090 RIGHT OF SALE AND DISTRIBUTION OF MATERIAL AND RIGHT TO CONDUCT FUND RAISING ACTIVITIES
- WAC 132I-14-100 RIGHT TO BE INTERVIEWED
- WAC 132I-14-110 RIGHT OF PRIVACY OF RECORDS
- WAC 132I-14-120 AUTHORITY AND RESPONSIBILITY DISCIPLINE
- WAC 132I-14-130 VIOLATIONS
- WAC 132I-14-140 DEFINITION OF DISCIPLINARY ACTION
- WAC 132I-14-150 AUTHORITY TO REQUEST IDENTIFICATION
- WAC 132I-14-160 DISCIPLINARY PROCEDURE
- WAC 132I-14-170 DISCIPLINE COMMITTEE
- WAC 132I-14-180 PROCEDURE OF THE DISCIPLINARY COMMITTEE
- WAC 132I-14-190 READMISSION AFTER DISMISSAL
- WAC 132I-14-200 METHOD OF REVIEW AND REVISION
- WAC 132I-14-210 FUNCTION OF THE REVIEW COMMITTEE

WSR 88-03-048

PROPOSED RULES

HIGHLINE COMMUNITY COLLEGE

[Filed January 19, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Highline Community College intends to adopt, amend, or repeal rules concerning student rights and responsibilities, chapter 132I-120 WAC, which describe the standards of conduct for students, disciplinary actions the college may take for violations of these standards, the process and procedures for enforcing disciplinary action, and the process for appeal and review of disciplinary action;

that the institution will at 10:00 a.m., Thursday, March 10, 1988, in Highline Community College, Building 25 Board Room, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 28B.50.140.

The specific statute these rules are intended to implement is RCW 28B.50.140(13).

WSR 88-03-047

PROPOSED RULES

HIGHLINE COMMUNITY COLLEGE

[Filed January 19, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Highline Community College intends to adopt, amend, or repeal rules concerning chapter 132I-14 WAC, student rights and responsibilities code, WAC 132I-14-010 through 132I-14-210, are hereby repealed;

that the institution will at 10:00 a.m., Thursday, March 10, 1988, in Highline Community College, Building 25 Board Room, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 28B.50.140.

The specific statute these rules are intended to implement is RCW 28B.50.140(13).

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before March 8, 1988.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before March 8, 1988.

Dated: January 15, 1988  
By: Edward M. Command  
Vice President

### STATEMENT OF PURPOSE

Description or Purpose of Rules: Chapter 132I-120 WAC, Student rights and responsibilities, prescribes standards of conduct for students of Community College District No. 9, the violations of which may constitute sufficient cause for disciplinary action.

Statutory Authority: RCW 28B.50.140.

Summary of Proposed Rule: These rules describe the standards of conduct for students of Highline Community College, the disciplinary actions the college may take for violations of these standards, the process and procedures for enforcing disciplinary action, and the process and procedures to be followed in appealing and reviewing disciplinary action.

Responsible Personnel: Edward M. Command, Vice President, Highline Community College, P.O. Box 98000, Des Moines, WA 98198, (206) 878-3710; together with the administrative staff will be responsible for the implementation and enforcement of the rule.

This rule is not proposed to comply with federal law or federal or state court action.

#### Chapter 132I-120

### STUDENT RIGHTS AND RESPONSIBILITIES

#### WAC

132I-120-010	PURPOSE
132I-120-020	GENERAL POLICIES
132I-120-030	DEFINITIONS
132I-120-100	STUDENT RESPONSIBILITIES
132I-120-300	RIGHT OF ACADEMIC FREEDOM
132I-120-305	RIGHT OF EQUAL PROTECTION
132I-120-310	RIGHT OF ACCESS TO COLLEGE FACILITIES
132I-120-315	RIGHT OF ASSEMBLY
132I-120-320	RIGHT TO INVITE OUTSIDE SPEAKERS
132I-120-325	RIGHT OF PUBLICATION
132I-120-330	RIGHT OF OWNERSHIP OF WORKS
132I-120-335	RIGHT OF SALE AND DISTRIBUTION OF MATERIAL AND RIGHT TO CONDUCT FUND RAISING ACTIVITIES
132I-120-340	RIGHT TO BE INTERVIEWED
132I-120-345	RIGHT TO PRIVACY OF RECORDS
132I-120-400	AUTHORITY AND RESPONSIBILITY FOR DISCIPLINE
132I-120-405	VIOLATIONS
132I-120-410	DEFINITION OF DISCIPLINARY ACTION
132I-120-415	AUTHORITY TO REQUEST IDENTIFICATION
132I-120-420	DISCIPLINARY PROCEDURE
132I-120-425	EMERGENCY WITHDRAWAL
132I-120-430	INVOLUNTARY ADMINISTRATIVE WITHDRAWAL
132I-120-435	DISCIPLINE COMMITTEE
132I-120-440	PROCEDURE OF THE COLLEGE DISCIPLINE COMMITTEE
132I-120-445	READMISSION AFTER DISMISSAL
132I-120-500	REVIEW OF RULES
132I-120-510	MEMBERSHIP OF REVIEW COMMITTEE
132I-120-520	FUNCTION OF THE REVIEW COMMITTEE

### Chapter 132I-120 STUDENT RIGHTS AND RESPONSIBILITIES

#### [NEW SECTION]

WAC 132I-120-010 PURPOSE. Community College District 9 serves its community and the general public by providing continuing educational opportunities for all persons who are eligible to attend. To fulfill this purpose, the college provides students with broad, comprehensive programs of general education, including university-parallel transfer courses, developmental-remedial programs, and vocational-technical curricula. The college also provides cultural, recreational, and community service activities. The college provides health, guidance, and counseling services which every student is encouraged to make use of on a voluntary basis. The confidentiality of counseling, health, and adviser services will be strictly maintained except as called for by legal requirement.

As members of the college community, students are encouraged through free inquiry and free expression, to develop their capacity for critical judgment and to engage in sustained and independent search for knowledge. It is the responsibility of the student to observe and help maintain appropriate conditions in the classroom, on campus, and in the larger community.

Highline Community College may take appropriate disciplinary action when student conduct unreasonably interferes with the college's educational responsibilities, its subsidiary responsibilities, or to protect the health and safety of persons on or in college facilities, to maintain and protect college property or private property on college facilities, to protect college records, to provide college services, and/or to sponsor non-classroom activities such as lectures, concerts, athletic events, and social functions.

The purpose of these rules is to prescribe standards of conduct for students of Community College District No. 9, the violations which may constitute sufficient cause for disciplinary action as described in and in accordance with the procedures established in WAC 132I-120-010 through 132I-120-520.

A student's registration constitutes acceptance of the responsibility to comply with the general policies and regulations established by the college.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

#### [NEW SECTION]

WAC 132I-120-020 GENERAL POLICIES. (1) Highline Community College is an agency of the State of Washington and adheres to all local, state, and federal laws. The college is obligated to demonstrate respect for laws by cooperating in their enforcement.

(2) Highline Community College cannot and will not establish regulations which would abridge constitutional rights.

(3) Proper procedures are established to maintain conditions conducive to the effective performance of the function of the college, to protect individual students from unfair imposition of penalties, and to assure due process. Highline Community College is granted the right by law to adopt such rules as are deemed necessary to govern its operations.

(4) If these rules are broken, the college has the right and the obligation to take that action which is in the best interest of the entire college and which is commensurate with the constitutional rights of the individual.

(5) If a student is charged with an off-campus violation of the law, the matter shall be of no disciplinary concern to the college unless the student is incarcerated and unable to comply with academic requirements. If the violation of law occurs on campus and is also a violation of a published college regulation, the college may institute its own proceedings against the offender or may refer the violation to the appropriate civilian authorities for disposition. The college shall not proceed with a disciplinary action that in fact or appearance duplicates punishment for the same offense unless the interests of the college are implicated in some separate way by violation of law.

(6) The Highline College Student Union will have the right to participate in the formulation and reviewing of all policies and rules pertaining to student conduct and in the enforcement of all such rules as provided by these rules.

(7) Rules of conduct and procedures of enforcement shall be printed and made available to all students.

(8) All rules herein adopted concerning student conduct shall apply to every student attending the college in any college facility.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 1321-120-030 DEFINITIONS. (1) As used in these rules, the following words and phrases shall mean:

(a) "Assembly" means any overt activity engaged in by three or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons, or group of persons.

(b) "College" means Highline Community College, or any additional community college hereafter established with Community College District 9, State of Washington, and collectively, those responsible for its control and operation.

(c) "College community" means trustees, students, employees, and guests on college owned or controlled facilities.

(d) "College facilities" means and includes any or all property controlled and/or operated by the college.

(e) "Day" means a calendar day except the effective day of any provision of these rules shall be the day following a Saturday, Sunday or holiday.

(f) "HCSU" refers to Highline College Student Union, the official student government association.

(g) "President" means the chief executive officer of the college appointed by the board of trustees, and for the purposes of these rules includes "acting president" or the delegated authority in the absence of the president.

(h) "Board of trustees" means the board members appointed by the Governor of the State of Washington who have final authority for the governance of Highline Community College.

(i) "Student" means and includes all persons enrolled at the college, both full-time and part-time.

(j) "Student group" means a number of students who have not complied with the formal requirements of becoming officially recognized a student organization.

(k) "Student organization" means a number of students who have complied with the formal requirements of college recognition as provided by the HCSU.

(2) All other terms have their natural meaning unless the context dictates otherwise.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

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

[NEW SECTION]

WAC 1321-120-100 STUDENT RESPONSIBILITIES. (1) Students who choose to attend Highline Community College also choose to participate actively in the adult learning process offered by the College. As a process, learning is not a product or commodity which is bought and sold, but rather, is a relationship between teachers who are willing and competent to teach and learners who are willing and competent to learn. Therefore, the responsibility for learning is shared equally between students and staff.

(2) The college is responsible for providing its students and educational environment rich in the high quality resources needed by students to attain their individual educational goals. In return, students are responsible for making themselves aware of the full breadth of the resources available, for the timely choosing and appropriate use of those resources, and for the specific behavioral tasks necessary for attaining desired learning outcomes. Examples of specific student responsibilities are:

(a) To become knowledgeable of and adhere to the college's policies, practices, and procedures;

(b) To participate actively in the learning process, both in and out of the classroom;

(c) To seek timely assistance in meeting educational goals;

(d) To attend all class sessions;

(e) To adequately prepare to participate fully in class activities;

(f) To participate actively in the advising system,

(g) To develop skills required for learning, e.g., basic skills, time management, motivation, study skills, and openness to the educational process;

(h) To assume final authority for the selection of appropriate educational goals;

(i) To select courses appropriate for meeting chosen educational goals;

(j) To evaluate the quality and quantity of resources available to students; and

(k) To contribute towards improving the college.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 1321-120-300 RIGHT OF ACADEMIC FREEDOM. (1) Freedom of discussion and expression of views must be encouraged and protected. Instructors have the responsibility to maintain order and to keep classroom discussion relevant to the course, but their authority must not be used to suppress the expression of views contrary to their own.

(2) Academic evaluation of student performance shall not be prejudicial or capricious. Students have a right to be informed in writing of grading policy and course content at the beginning of each course.

(3) Information about student views, beliefs, and political associations acquired by professors in the course of their work as instructors, advisors, and counselors is confidential and is not to be disclosed to others unless under legal compulsion or with permission of the student.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 1321-120-305 RIGHT OF EQUAL PROTECTION. (1) It is the policy of Highline Community College to provide equal opportunity for all applicants and students to obtain college services and admission to classes and programs without regard to race, creed, color, age, sex, national origin, religious preference, sexual orientation, disability status, Vietnam Era and/or disabled veteran status.

(2) It is the policy of Highline Community College that no student shall be subject to sexual harassment by an employee of the college or by another student. Sexual harassment takes place when an individual subjects another person to unwanted sexual attention (either verbal or physical), coerces her/him into sexual relations and/or punishes her/him for refusal. Sexual harassment may occur when a person is in a position of authority, or is able to control or affect another person's academic career, grade, job, or emotional well being.

(3) It is the policy of Highline Community College to grant equal opportunity to handicapped students in accordance with Section 504 of the Rehabilitation Act of 1973.

(4) If a student believes his or her rights have been violated, whether such rights have been expressly stated in these rules or not, the student should attempt to solve the problem at the lowest practical level with the instructor or, if the student determines the problem may be handled more appropriately at a higher level of involvement, the complaint may be initiated at the next higher step.

Step 1 - instructor

Step 2 - department or program coordinator

Step 3 - division chairperson

Step 4 - associate dean of instruction

Step 5 - dean of instruction

Step 6 - faculty professional rights and responsibilities committee

Step 7 - college president

(5) Students may seek the assistance of any faculty member, for example, any instructor, faculty adviser, counselor, librarian, health services coordinator, or student programs coordinator, in receiving information, support, and/or advocacy in using the appeals process.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**Reviser's note:** The new section above was filed by the institution as WAC 1321-120-305. However, the other rules for the Highline Community College are found in Title 1321 WAC. The section above appears to be WAC 1321-120-305, but pursuant to the requirements of RCW 34.08.040, it is published in the same form as filed by the institution.

## [NEW SECTION]

WAC 1321-120-310 RIGHT OF ACCESS TO COLLEGE FACILITIES. (1) Students have the right of access to college facilities subject to ordinary schedules and regulations governing each particular facility. When using these facilities, the student has the responsibility to respect these regulations and to comply with the spirit and content of these rules to facilitate the educational purposes of the college.

(2) The president of the college, personally or acting through the dean of students or another person designated by the president, shall have power and authority to invoke the actions described in this section whenever an event, in the sole opinion of the president or designee, appears to be disruptive, to impede the movement of persons or vehicles, or to disrupt or threatens to disrupt the ingress or egress of persons from college facilities. The president may:

(a) Prohibit the entry of a person or persons or withdraw the license or privilege of a person or persons or any group of persons to enter onto or remain upon any portion of a college facility; or

(b) Give notice against trespass in accordance with the Washington state statutes to any person, persons or group of persons against whom the license or privilege has been withdrawn or who have been prohibited from entering onto or remaining upon all or any portion of a college facility; or

(c) Order any person, persons or group of persons to leave or vacate all or any portion of a college facility.

(3) Any student who shall disobey a lawful order given by the president or his/her designee pursuant to the requirements of WAC 1321-120-310 (1) and (2) shall be subject to disciplinary action.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

## [NEW SECTION]

WAC 1321-120-315 RIGHT OF ASSEMBLY. (1) Students have the right to conduct or may participate in any assembly as defined in WAC 1321-120-030(1) on facilities that are generally available to the public provided that such assemblies:

(a) Are conducted in an orderly manner;

(b) Do not unreasonably interfere with classes, scheduled meetings or ceremonies, or regular functions of the college;

(c) Do not unreasonably interfere with pedestrian or vehicular traffic;

(d) Do not cause mental, verbal, or physical abuse of another person in the college community; or

(e) Do not cause destruction or damage to college property, including library materials, or private property on college facilities.

(2) Any student group or student organization which wishes to schedule an assembly must reserve the college facilities in the office of the coordinator of student activities.

(3) Assemblies which violate these rules may be ordered by disperse by the college in accordance with Washington state statutes.

(4) A student who fails to disperse when an assembly is ordered to disperse, in accordance with Washington state statutes, is subject to disciplinary action. A non-student who violates any provision of the rule will be referred to civilian authorities for criminal prosecution.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

## [NEW SECTION]

WAC 1321-120-320 RIGHT TO INVITE OUTSIDE SPEAKERS. It is the policy of Highline Community College to maintain an atmosphere in which a spirit of free inquiry and expression may exist. In accordance with this basic principle, the college makes this specific statement of policy with respect to the appearance of campus speakers:

(1) Any speaker invited by any student organization or student group may speak on the campus, subject to the procedures outlined in WAC 1321-120-320 (3), (4), (5).

(2) The appearance of speakers on campus does not involve an endorsement either implicit or explicit, of their views by this college, its students, its faculty, its administrators, or its Board of Trustees.

(3) The college may specify reasonable regulations with regard to time, place, and manner of a proposed speaker's appearance.

(a) Any student group or organization must notify the student government office, the coordinator of student activities, and the dean of

students through the proper form (available in the coordinator of student activities office) at least three days prior to the event. It is recognized that contingencies may necessitate waiver of the three-day limit. When sponsorship is by a student organization, notification must be through an authorized member of the organization with the approval of that organization and with the knowledge of the organization's adviser.

(b) A student group may invite an outside speaker by: (i) seeking the sponsorship of a student organization or, (ii) by requesting the student government to sponsor the speaker.

(4) Appearances shall be coordinated with the master activities calendar maintained in the office of the dean of students and reservations for room facilities made through the coordinator of student activities office. Placement on the master activities calendar establishes a priority for the event over other requests for that date and time.

(5) In order to insure open-minded, objective evaluation of divergent points of view, the dean of students shall require a special planning session with the coordinator of student activities and the student government when any of the four may deem it advisable. The planning session will include sponsoring group members and the adviser who is responsible for conducting the meeting.

(6) Groups renting college facilities are subject to the regulations governing rentals adopted by the board of trustees in place of the procedures contained in WAC 1321-120-320.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

## [NEW SECTION]

WAC 1321-120-325 RIGHT OF PUBLICATION. (1) Publications by students which operate on the same basis as other private enterprises are subject only to the same control as those, respecting reasonableness of time, place and manner of distribution, as defined in WAC 1321-120-335. Editors, managers, and other writers shall not be subject to discipline because of student, faculty, administration, or community disapproval of editorial policy or content. This editorial freedom entails a corollary obligation under the canons of responsible journalism and applicable regulations of state and/or federal law regarding libel and obscenity.

(2) The Thunderword and other college-subsidized publications are subject to review by an adviser or instructor as a reasonable precaution against the publication of matter which would constitute illegal publication. Censorship of any publication may not take place unless substantial danger of liability or illegality can be demonstrated.

(3) All student communications shall explicitly state that the opinions expressed are not necessarily those of the college or its student body.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

## [NEW SECTION]

WAC 1321-120-330 RIGHT OF OWNERSHIP OF WORKS. It shall be the policy of Highline Community College that employees of the college shall not use students' published and unpublished works for personal gain without written consent of the student.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

## [NEW SECTION]

WAC 1321-120-335 RIGHT OF SALE AND DISTRIBUTION OF MATERIAL AND RIGHT TO CONDUCT FUND RAISING ACTIVITIES. (1) Students have the right to engage in incidental sales of personal property in a private transaction provided college facilities are not explicitly used for this purpose.

(2) The use of college grounds or facilities for commercial or private gain purposes is prohibited except where commercial activity such as sale of books, instructional supplies, or food contribute to the operation of the instructional program or where limited sale is specifically authorized by the dean of students for the benefit of an approved activity.

(3) All fund raising activities must be approved by the dean of students.

(4) All merchandise, periodicals, magazines and books offered for commercial sale may be sold only through the college bookstore or college food services except when approved pursuant to WAC 1321-120-335.

(5) All free publications not in violation of state and/or federal laws such as books, magazines, newspapers, handbills, leaflets, or similar materials may be distributed on campus. Any person desiring to distribute such publications shall first register with the dean of students so that reasonable areas and times can be assured and the activities of the institution will not be unduly interfered with. All handbills, leaflets, newspapers, and similarly related matter must bear identification as to the publishing agency and distributing organization or individual.

(6) Any person desiring to collect signatures for petitions must first register with the dean of students. Exceptions are students who are collecting signatures on a petition as a class-related activity or concerning college policies and procedures.

(7) All posters and notices to be posted on exterior bulletin boards must first be registered with the student activities office. Posting on interior bulletin boards must have the approval of the building manager.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

#### [NEW SECTION]

WAC 132I-120-340 RIGHT TO BE INTERVIEWED. (1) Every student has the right to be interviewed on campus by any legal organization desiring to recruit at the college.

(2) Any student, student group, or student organization may assemble in protest against any such organization provided that such protest does not interfere with any other student's right to have such an interview, and provided that such protest is in accordance with WAC 132I-120-315.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

#### [NEW SECTION]

WAC 132I-120-345 RIGHT TO PRIVACY OF RECORDS. The privacy and confidentiality of all student records shall be preserved consistent with the rules adopted by the college to implement the Family Educational Records Privacy Act of 1972.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

#### [NEW SECTION]

WAC 132I-120-400 AUTHORITY AND RESPONSIBILITY FOR DISCIPLINE. (1) The board of trustees acting in accordance with Washington state statutes does by written order delegate to the president of the college authority to administer disciplinary action. All disciplinary action in which there is a recommendation that a student be suspended or expelled from the college shall be acted upon by the president as defined in WAC 132I-120-030 (1)(e). The president shall have no authority to delegate this decision.

(2) Administration of the disciplinary procedure is the responsibility of the dean of students.

(3) The instructor is responsible for conduct in the classroom and is authorized to take such steps as are necessary when behavior of the student interrupts the normal classroom procedure. When such behavior may be so serious as to result in expulsion from the class, the instructor must report the infraction in writing to the dean of students at the earliest opportunity.

(4) The student has the right to appeal any disciplinary action of an instructor to the dean of students.

(5) Students bringing children on campus are governed by existing state laws concerning their responsibility for the children.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

#### [NEW SECTION]

WAC 132I-120-405 VIOLATIONS. (1) No college disciplinary action shall be imposed on a student except in accordance with these rules.

(2) Student performance reflecting honest and reliable behaviors is necessary in order to make an accurate appraisal of the student's competencies. Any test-taking behavior observed which may be interpreted by the test proctor as a violation of test confidentiality will result in the test being removed from the student; the consequences of such behavior will be determined on an individual basis by the instructor/faculty

and can result in dismissal from the course with a failing grade. Some examples of unacceptable behavior during an exam include but are not limited to:

(a) Talking, whispering or otherwise interacting with another student;

(b) Using notes or books unless authorized by instructor;

(c) Looking at another student's test or test answers.

(3) Written assignments and/or electronic media assignments need to reflect original and appropriately referenced content. Electronic media includes, but is not limited to, computers, word processors and audio-visual equipment. Any falsification of the student's work is viewed seriously by the college. The consequences of such behavior will be determined on an individual basis by the instructor/faculty and can result in dismissal from the course with a failing grade.

(4) Disciplinary action may result from the commission or from the aiding or abetting of violations on college facilities or of the commission or omission in violation of civil or criminal law on college facilities such as:

(a) All forms of dishonesty including, but not limited to, knowingly furnishing false information to the college, and foregoing, altering or using college documents or instruments of identification with intent to defraud.

(b) Verbal or physical abuse of any person or conduct which unlawfully threatens movement or bodily harm or endangers the health or safety of any person.

(c) Destruction, damage, or misuse of college property or private property including library materials.

(d) Theft or conversion of college property or private property.

(e) Unauthorized use or access to college computers and other electronic media.

(f) Conduct which unreasonably disrupts the educational process of the college as defined in Washington state statutes.

(g) Lewd or indecent conduct as defined by Washington state statute.

(h) Disorderly conduct.

(i) Failure to comply with lawful directions of college personnel acting in performance of their duties.

(j) Interference by force or violence, or by threat of force or violence, with any administrator, faculty member, or student of the college who is in the peaceful discharge or conduct of his or her duties or studies.

(k) Possession, consumption, or furnishing of alcoholic beverages.

(l) Possession, consumption, or furnishing of any narcotic drug or dangerous drug as currently defined by law or hereinafter amended, except when use or possession is prescribed by an authorized medical doctor or dentist.

(m) Failure to disperse when an assembly is ordered to disperse as defined by Washington state statute.

(n) Disobedience to the notice against trespass as defined in accordance with Washington state statute.

(o) Failure to comply with the following regulations governing firearms and weapons:

(i) It shall be the policy of the college that carrying, exhibiting, displaying, or drawing any weapon, such as a dagger, sword, knife, or any other cutting or stabbing instrument or club or any other weapons apparently capable of producing bodily harm and/or property damage is prohibited on or in college facilities.

(ii) Explosives, incendiary devices, or any weapon facsimile are prohibited on or in college facilities.

(iii) It shall be the policy of the college that carrying of firearms on college facilities is prohibited except and unless the firearm is registered with the campus security for a specific period of time that the firearm is carried on campus.

(iv) The above regulations shall not apply to equipment or material owned, used, or maintained, by the college; nor will they apply to law enforcement officers.

(p) Violation of published college regulations including those related to entry and use of college facilities, the rules in these rules, and any other regulations which may be enacted with these rules.

(3) All rules hereinafter approved by the board pursuant to preceding Washington state statutes shall be in writing and shall be published, or posted in such a manner as to furnish adequate notice of their contents to students affected by such rules.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

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

[NEW SECTION]

WAC 1321-120-410 DEFINITION OF DISCIPLINARY ACTION. The following disciplinary action may be imposed upon students according to the procedure outlined in WAC 1321-120-420.

(1) Admonition: An oral statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(2) Warning: Notice in writing that continuation or repetition of conduct deemed wrongful, within a period of time stated in the warning, may be cause for more severe disciplinary action.

(3) Disciplinary probation: Formal action placing specific conditions upon the student's continued attendance and warning the student that further misconduct may subject him/her to dismissal.

(4) Restitution: Reimbursement for damage to or misappropriation of property. This may take the form of appropriate service or other compensation.

(5) Involuntary administrative withdrawal: Exclusion from classes and other privileges or activities in accordance with WAC 1321-120-430.

(6) Interim emergency withdrawal: Exclusion from classes and other privileges or activities in accordance with WAC 1321-120-425.

(7) Suspension: Exclusion from classes and other privileges or activities as set forth in the notice for a definite period of time.

(8) Dismissal: Termination of student status for an indefinite period of time. Conditions of reinstatement, if any, shall be stated in the order of dismissal.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

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

[NEW SECTION]

WAC 1321-120-415 AUTHORITY TO REQUEST IDENTIFICATION. In situations of apparent misconduct or apparent unauthorized presence in a college facility, it may be necessary for properly identified college personnel to ask a person to produce evidence of being a currently enrolled student at the college. Failure to comply with a legitimate request for identification from a properly identified college personnel may result in a disciplinary action if the person is found to be a student. In emergency situations, cases of serious misconduct or where there is a substantial danger to the college community or college property, failure to produce identification as a student may result in the assumption by college personnel that the person questioned is not a student and may result in direct civil or criminal action.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

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

[NEW SECTION]

WAC 1321-120-420 DISCIPLINARY PROCEDURE. (1) Disciplinary proceedings will be initiated by the dean of students or a designate.

(2) After considering the evidence and interviewing the student, the dean may take any of the following actions:

(a) Terminate the proceedings, exonerating the student or students.

(b) Dismiss the case after advisement.

(c) Impose minor sanctions which as admonition, warning, disciplinary probation or restitutions subject to the student's right of appeal. The student will be notified in writing of the charges if a warning, disciplinary probation or restitution is to be imposed.

(d) Refer the matter to the College Discipline Committee for a recommendation to the president of the college. The student shall be notified in writing that the matter has been referred to the committee.

(e) Recommend to the president that a student be subject to an interim emergency withdrawal in accordance with WAC 1321-120-425.

(f) Recommend to the president that the student be suspended for a specified time or dismissed subject to the student's right to appeal to the College Discipline Committee, subject to WAC 1321-120-020(4). The student shall be notified in writing that the matter has been referred to the president.

(3) In all cases the student shall be advised of rights by reference to these rules.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

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

[NEW SECTION]

WAC 1321-120-425 EMERGENCY WITHDRAWAL (1) An interim emergency withdrawal may be implemented immediately by the president, upon recommendation of the dean of students, if the dean of students determines that a student's behavior poses an imminent danger of:

(a) Causing serious physical harm to the student or others; or,

(b) Causing significant property damage, or directly and substantially impeding the lawful activities of others.

(2) A student subject to an interim emergency withdrawal shall be given written notice of the suspension either by personal delivery or by certified mail, to include a copy of these standards and procedures. An interim emergency withdrawal shall specify the length of term of the withdrawal and/or the conditions for reinstatement. The student shall have the right of appeal to the discipline committee in accordance with WAC 1321-120-435 or in the case of a mental disorder or suspected mental disorder may initiate involuntary administrative withdrawal procedures in accordance with WAC 1321-120-435.

(3) Any student subject to an interim emergency withdrawal shall be given an opportunity to appeal personally before the dean of students, or designee, within two days from the effective date of the interim emergency withdrawal, in order to review the following issues only:

(a) The reliability of the information concerning the student's behavior;

(b) Whether or not the student's behavior poses a danger of causing imminent, serious physical harm to the student or others, causing significant property damage, or directly and substantially impeding the lawful activities of others.

(4) As a result of the meeting between the dean of students and the student, the dean of students may:

(a) Recommend to the president either continuation or termination of the interim emergency withdrawal;

(b) Initiate disciplinary procedures in accordance with WAC 1321-120-420 or;

(c) Initiate involuntary administrative withdrawal procedures in accordance with WAC 1321-120-425.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

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

[NEW SECTION]

WAC 1321-120-430 INVOLUNTARY ADMINISTRATIVE WITHDRAWAL (1) A student may be subject to involuntary administrative withdrawal from Highline Community College if it is determined that the student is suffering from a mental disorder, and, as a result of the mental disorder:

(a) Engages, or threatens to engage, in behavior which poses a danger of causing physical harm to self or others; or

(b) Engages, or threatens to engage, in behavior which would cause significant property damage, or directly and unreasonably impede the lawful activities of others.

(2) These standards do not preclude disciplinary action in accordance with provisions of other portions of these rules.

(3) A student accused of violating college disciplinary regulations may be diverted from the standard disciplinary process and withdrawn in accordance with the provisions of WAC 1321-120-430, if the student, as a result of mental disorder:

(a) Lacks the capacity to respond to pending disciplinary charges; or

(b) Did not know the nature or wrongfulness of the conduct at the time of the offense.

(4) Students subject to disciplinary charges who wish to introduce relevant evidence of any mental disorder must so inform the dean of students in writing at least two days prior to any disciplinary hearing. If the dean determines that the evidence may have merit, the case shall be resolved in accordance with the standards and procedures specified in WAC 132I-120-430. Thereafter, if it is determined that the student does not meet the criteria set forth in WAC 132I-120-430(3), the case will be returned to the disciplinary process. Evidence of any mental disorder may not be admitted into evidence or considered by the dean of students or the College Discipline Committee in any disciplinary proceeding.

(5) The dean of students may recommend that a student receive a mental health evaluation by any competent mental health professional, if the dean reasonably believes that the student may meet the criteria set forth in WAC 132I-120-430(1), or if a student subject to disciplinary charges wishes to introduce relevant evidence of any mental disorder.

(6) Students wishing to introduce evidence of a mental disorder shall be given five days to complete the mental health evaluation, unless an extension is granted by the dean in writing. Days shall be counted from either the date on which the dean recommended an evaluation or from the date on which the student requested to introduce evidence of a mental disorder.

(7) Any pending disciplinary action may be withheld until the evaluation is completed, in the discretion of the dean of students.

(8) An informal hearing, as provided in WAC 132I-120-430(9), will be held within ten days after either the student has been evaluated by the appropriate mental health professional or the student has requested such a hearing. Students who have been withdrawn on an interim emergency withdrawal will remain withdrawn on an interim basis pending completion of the informal hearing, but will be allowed to enter upon the campus to attend the hearing, or for other necessary purposes, as authorized in writing by the dean of students.

(9) Students subject to an involuntary withdrawal shall be accorded an informal hearing before the dean of students, or a designee. The following guidelines will be applicable:

(a) Students will be informed of the time, date, and location of the informal hearing, in writing, either by personal delivery or certified mail, at least two days in advance.

(b) The entire case file, including an evaluation prepared pursuant to WAC 132I-120-430(5), and the names of prospective witnesses, will be available for inspection by the student in the dean of student's office during normal business hours. The file, which should be available at least two days before the informal hearing, need not include the personal and confidential notes of any institutional official or participant in the evaluation process.

(c) The informal hearing shall be conversational and non-adversarial. Formal rules of evidence will not apply. The dean of students or designee shall exercise active control over the proceedings to avoid needless consumption of time and to achieve the orderly completion of the hearing. Any person who disrupts the hearing may be excluded.

(d) The student may choose to be assisted by a family member and a competent mental health professional, or, in lieu of a mental health professional, by a member of the faculty or staff of the institution. Furthermore, the student may be accompanied by legal counsel, although the role of counsel will be limited to providing legal advice to the student.

(e) Those assisting the student, except for legal counsel, will be given reasonable time to ask relevant questions of any individual appearing at the informal hearing, as well as to present relevant evidence.

(f) Whenever possible, the student will be expected to respond to questions asked by the dean or designee. Students who refuse to answer on the grounds of the Fifth Amendment privilege may be informed that the dean or designee could draw a negative inference from their refusal which might result in their dismissal from the institution, in accordance with these standards and procedures.

(g) The informal hearing may be conducted in the absence of a student who fails to appear after proper notice.

(h) The mental health professional who prepared the evaluation pursuant to WAC 135I-120-430(5) procedures may appear at the informal hearing, and respond to relevant questions, upon request of any party, if the dean or designee determines that such participation is essential to the resolution of an issue in the case.

(i) The dean or designee may permit a college official, and the mental health professional who prepared the evaluation, to appeal at the

informal hearing and to present evidence in support of any withdrawal recommendation. Such evidence will not be presented by legal counsel for the college.

(j) The informal hearing shall be tape recorded by the dean or designee. The tape(s) shall be kept with the pertinent case file for as long as the case file is maintained by the institution.

(k) A written recommendation to the president shall be rendered by the dean or designee within five days after completion of the informal hearing. The president shall have five working days to make a final decision. The president's written decision, which should be mailed or personally delivered to the student, should contain a statement of reasons for any determination leading to involuntary withdrawal. The student should also be advised as to when a petition for reinstatement would be considered, along with any conditions for reinstatement.

(l) The decision of the president shall be final and conclusive and not subject to appeal.

(10) Reasonable deviations from these procedures will not invalidate a decision or proceeding unless significant prejudice to a student may result.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

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

#### [NEW SECTION]

WAC 132I-120-435 DISCIPLINE COMMITTEE. The College Discipline Committee will hear and make recommendations on all disciplinary cases referred to it by the dean of students or appealed to it by students who have been disciplined by the Dean.

(1) The College Discipline Committee will be composed of the following members:

(a) A chairperson will be designated by the president of the college for a period of one year. The chairperson will be non-voting. It is the responsibility of the chairperson to ensure that all procedural guidelines specified in WAC 132I-120-440 are followed, to take whatever steps are necessary during the hearing itself to ensure that the hearing is conducted in a safe and orderly manner, to advise the members of the committee concerning precedents and guidelines affecting the individual case, and to inform the student in writing of the action taken by the College Discipline Committee following the hearing.

(b) Two faculty members recommended by the faculty senate and appointed by the president. Two alternatives shall be recommended and appointed to serve in the event that appointees are unable to serve or complete their term. The committee members shall serve for one year terms.

(c) Two full-time student representatives shall be chosen by the HCSU in such manner as the members thereof shall determine. For the purposes of these rules a full-time student shall be defined as currently enrolled in twelve or more credit hours. Two alternates shall be appointed to serve in the event that members are unable to serve or complete their term.

(2) The committee shall be formed as early as possible in the fall quarter and shall be convened by the dean of students during the first four weeks of fall quarter to discuss these rules. Other meetings may be held as determined by the chairperson or requested by the committee members.

(3) Faculty or student members may be excused from service for the entire year, for a particular period of time, or after a particular case. Replacement of excused members shall be made from respective panels.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

#### [NEW SECTION]

WAC 132I-120-440 PROCEDURE OF THE COLLEGE DISCIPLINE COMMITTEE. (1) At least ten days prior to the proceeding the student shall be given written notice indicating the nature and basis of the charge and the penalties which may attach thereto.

(2) The student may request that the student members of the College Discipline Committee be excused from the committee in hearing the case.

(3) No member of the College Discipline Committee shall participate in any case in which he/she is the subject, complainant, or witness, in which he/she has direct or personal interest, or in which he/she has acted previously in an advisory capacity. A committee member's eligibility to participate in the case may be challenged by parties to the case or by other committee members, but decisions in this regard shall be made by the appropriate panel, or by presidential appointment in the case of the chairperson.

(4) The dean of students or the dean's designee shall present the facts supporting the charges of student misconduct.

(5) The student appearing before the committee has the right to be accompanied and represented by a peer, a faculty member or a legal advisor of his/her choice during all stages of the proceeding. Should the student have legal aid appearing on his/her behalf, he/she shall notify the committee of his/her intentions at least three days prior to the scheduled hearing.

(6) During the proceeding, the student shall be given an opportunity to testify and present evidence and witnesses relevant to the charge or possible penalty involved. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the chairperson, is the best evidence reasonable obtainable, having due regard for its necessity, availability, and trustworthiness. In passing upon the admissibility of evidence, the chairperson may give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury in the Superior Court of the State of Washington.

(7) The student or the student's representative shall be given an opportunity to question witnesses. No statements or depositions shall be considered by the committee unless the student has had an opportunity to rebut unfavorable inferences which might otherwise be drawn.

(8) A record of the proceeding shall be made. This may be a tape recording. The student shall be guaranteed access to a copy of this record.

(9) Proceedings will be open to members of the college community. The session may be closed upon request of the student or the College Discipline Committee. The chairperson of the committee may exclude from the hearing those guests who are disruptive of the proceedings. (In addition, to preserve the objectivity of the evidence and testimony, the chairperson of the committee may exclude from the session, except during their actual testimony, those people scheduled to present testimony or evidence.)

(10) The student will be provided with a copy of the findings and with the conclusions and recommendations that the committee makes to the president. The student will also be advised of the right to present, within seven days, a written statement to the president of the college before action is taken on the recommendation.

(11) The college president shall review the record of the case and any statement made by the student as provided in WAC 1321-120-440(10) and shall indicate action taken to the College Discipline Committee which heard the case, the dean of students, and the student. Notice of dismissal or suspension will be signed by the president.

(12) The discipline committee may establish general rules of procedure consistent with the foregoing safeguards. A copy of these shall be given the student in advance of the hearing.

(13) Records of disciplinary cases shall be filed in the office of the dean of students. No record of proceedings wherein the student is exonerated, other than the fact of exoneration, shall be maintained.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

#### [NEW SECTION]

WAC 1321-120-445 READMISSION AFTER DISMISSAL. A student dismissed from the college may be readmitted only on written petition to the president of the college. Petitions must indicate how specific conditions have been met and reasons which support a reconsideration. The president may use whatever review procedures are at his/her disposal in consideration of readmission. The president shall convey a decision in writing to the student.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

#### [NEW SECTION]

WAC 1321-120-500 REVIEW OF RULES. These rules will be reviewed annually by the dean of students. A review committee shall convene upon the request of the dean of students.

#### [NEW SECTION]

WAC 1321-120-510 MEMBERSHIP OF REVIEW COMMITTEE. (1) The review committee shall be composed of eight members. Four of these members shall be students appointed by the HCSU chairperson. Four members shall be appointed by the dean of students. Each member shall have one vote. The dean of students shall serve as a non-voting chairperson.

(2) The term of office shall be for one academic year starting at the beginning of fall quarter.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

#### [NEW SECTION]

WAC 1321-120-520 FUNCTION OF THE REVIEW COMMITTEE. (1) The review committee will establish procedures for review and possible revision of these rules.

(2) All proposed amendments shall be submitted to the dean of students, who will send copies of each proposal to members of the review committee for their consideration. The review committee will hear and consider all proposed amendments and publish proposed recommendations for review by the college community.

(3) Recommendations for revision of these rules shall be made to the board of trustees.

(4) These rules shall be published and made available to the college community.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 88-03-049**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Family Independence Program Executive Committee)**  
 [Memorandum—January 7, 1988]

Following are the dates and places for the Family Independence Program Executive Committee meetings for 1988.

February 29, 1988	9 - 12	General Administration Building First Floor Conference Room
March 30, 1988	1 - 4	General Administration Building First Floor Conference Room
April 29, 1988	9 - 12	General Administration Building First Floor Conference Room
May 31, 1988	9 - 12	Senate Hearing Room 1 Cherburg Building
June 30, 1988	9 - 12	Senate Hearing Room 1 Cherburg Building
July 29, 1988	9 - 12	Senate Hearing Room 1 Cherburg Building
August 31, 1988	9 - 12	Senate Hearing Room 1 Cherburg Building
September 30, 1988	9 - 12	Senate Hearing Room 1 Cherburg Building
October 31, 1988	9 - 12	Senate Hearing Room 1 Cherburg Building
November 30, 1988	9 - 12	Senate Hearing Room 1 Cherburg Building
December 21, 1988	9 - 12	Senate Hearing Room 1 Cherburg Building

**WSR 88-03-050**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 2585—Filed January 19, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to recovery from estates, new WAC 388-81-047.

This action is taken pursuant to Notice No. WSR 87-24-058 filed with the code reviser on December 1, 1987. 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 January 15, 1988.

By Leslie F. James, Director  
 Administrative Services

NEW SECTION

**WAC 388-81-047 RECOVERY FROM ESTATES.** (1) The department shall recover the cost of medical care provided to a recipient, who was sixty-five years old or older, upon the recipient's death, except:

- (a) Where there is a surviving spouse; or
- (b) Where there is a surviving child who is:

- (i) Under twenty-one years of age, or
- (ii) Blind or disabled as defined in chapter 388-92 WAC; or

(c) Where there are surviving children, other than defined in (b) of this subsection, recovery shall not include:

- (i) The first fifty thousand dollars of the estate value at the time of death, and
- (ii) Sixty-five percent of the remainder.

(2) The department shall assert and enforce a claim against the estate of the deceased recipient for the debt in subsection (1) of this section, in accordance with chapter 11.40 RCW.

(3) The department shall file a lien against any real property which was in the name of the recipient just prior to death.

(a) The lien shall be filed with the county auditor of the county in which the property is located, and

(b) The lien shall be deemed effective as of the date of the recipient's death, and

(c) Recovery shall be upon the next sale or transfer of the property.

(4) If a surviving spouse or child, as defined in subsection (1)(b) of this section, is discovered or contacts the department prior to recovery, the department shall release the lien.

(5) The term "child" shall include both natural and adopted children.

(6) The value of the estate shall be the valuation listed in current property tax records.

**WSR 88-03-051**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 2586—Filed January 19, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to nursing home licensure program administration, amending chapter 388-98 WAC.

I, Leslie F. James, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this amendment is necessary to recruit receivers and file receivership petitions as necessary in accordance with chapter 476, Laws of 1987.

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

This rule is promulgated pursuant to RCW 18.51.070 which directs that the Department of Social and Health Services has authority to implement the provisions of chapter 18.51 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 January 19, 1988.

By Leslie F. James, Director  
 Administrative Services

NEW SECTION

**WAC 388-98-005 RECEIVERSHIP.** (1) *The department may file a petition in superior court of Thurston County, or in superior court of the county in which the nursing home is located, to establish receivership for a nursing home. The department shall allege in the petition one or more of the following conditions is present and the current operator has demonstrated an inability or unwillingness to take necessary corrective action:*

(a) *The nursing home is operating without a license, or*

(b) *The nursing home has not given the department 60 days written notice prior to its intended closure date and has not made arrangements within 30 days before closure for the orderly transfer of its residents; PROVIDED THAT, if the nursing home has given the department 60 days prior written notice, but the department has not acted with all deliberate speed to transfer the residents, no petition for receivership shall be filed for the nursing home's failure to make arrangements for transferring residents; or*

(c) A condition exists in a nursing home which demonstrates an immediate and serious threat of harm to the health, security, safety, or welfare of the residents including, but not limited to abandonment of the nursing home by the owner or operator; or

(d) The nursing home demonstrates a persistent pattern or practice of noncompliance with the requirements of chapter 18.51, 74.42 RCW, or other statutes, or standards and regulations adopted by the department designed to safeguard the health, security, or welfare of residents such that the nursing home has demonstrated a repeated inability to maintain minimum patient care standards; or

(e) The nursing home repeatedly demonstrated a limited capacity to furnish an adequate level or quality of care.

(2) If the department files a petition under the conditions described in subsection (1) of this section, the department shall request the court to:

(a) Restrain the licensee from continued operation of the nursing home; and

(b) Order the licensee to be divested of all possession and control of the nursing home including, but not limited to, all patient care records, financial records, and other records necessary for the continued operation of the nursing home, during the time the receivership is in effect; and

(c) Grant the receiver the authority to temporarily relocate some or all of the residents:

(i) If the receiver determines the resident's health, security, or welfare is jeopardized;

(ii) During the time the receivership is in effect; and

(iii) If the department concurs with the receiver's determination relocation is necessary.

(3) The department is not required to file a petition for receivership when the physical condition of the premises is such that closure of the nursing home would be more prudent than continued operation.

#### NEW SECTION

**WAC 388-98-010 LIST OF QUALIFIED RECEIVERS.** (1) The department may recruit individuals, partnerships, and corporations interested in serving as a receiver of a nursing home. Recruitment may be in the form of personal letters, radio or television announcements, or advertisements in publications determined suitable by the department.

(2) Any individual, partnership, or corporation desiring to be a receiver shall complete the sections designated by the department of an application for a nursing home license.

(3) Any individual, partnership, or corporation with experience in providing long-term health care and a history of satisfactory operation of a nursing home may submit an application to the department at any time to serve as a receiver. Applicants shall be subject to the criteria established for licensees found in Washington Administrative Code 248-14-080, except the department may waive on a case-by-case basis the requirement for having 60 days to review the application.

(4) The department shall maintain a list of qualified potential receivers. The department shall add names of

qualified applicants to the list upon receipt of an application properly completed by the applicant and approved by the department. The department shall update the list by July 1 of each year. Updating shall verify:

(a) Information on the application is still current; and

(b) The individual, partnership, or corporation remains interested in serving as a receiver.

(5) Individuals, partnerships, or corporations failing to update their application as requested by the department shall not be considered as potential receivers unless a new application is submitted to the department.

(6) The department shall not consider as a receiver any person, partnership, or corporation which:

(a) Is the licensee, administrator, or partner, officer, director, managing employee, or owner of five percent or more of the assets of the nursing home subject to receivership; or

(b) Is affiliated with the nursing home subject to receivership; or

(c) Has owned or operated a nursing home that has been ordered into receivership in any state; or

(d) Has owned or operated a nursing home against which decertification action or licensure suspension or revocation proceedings have been initiated or have been in effect within two years preceding the filing of the receivership petition.

(7) The department may recommend to the court a receiver from the list. In making the recommendation, any one or more of the following factors may be considered:

(a) The potential receiver's willingness to serve as a receiver for the nursing home in question;

(b) The amount and quality of the potential receiver's experience in long term care;

(c) The quality of care, as determined by prior survey reports, provided under the potential receiver's supervision or management;

(d) The potential receiver's prior performance as a receiver;

(e) How soon the potential receiver would be available to act as a receiver;

(f) The potential receiver's familiarity and past compliance with Washington state regulations applicable to nursing homes;

(g) The potential receiver's economic potential and interest in operating the nursing home on a permanent basis;

(h) Preference may be given to potential receivers expressing an interest in the permanent operation of the nursing home.

#### NEW SECTION

**WAC 388-98-015 DUTIES AND POWERS OF RECEIVER.** (1) The receiver shall protect the health, security, and welfare of the residents for the duration of the receivership. The receiver shall perform all acts reasonably necessary to ensure residents' needs are met. Such acts may include, but are not limited to:

(a) Correcting deficiencies cited by the department;

(b) Hiring, directing, managing, and discharging all consultants and employees for just cause, discharging

the administrator of the nursing home, recognizing collective bargaining agreements, and settling labor disputes;

(c) Receiving and expending in a prudent and businesslike manner all revenues and financial resources of the home, provided that priority shall be given to debts and expenditures directly related to providing care and meeting residents' needs;

(d) Making necessary purchases, repairs, and replacements, provided that expenditures for purchases, repairs, or replacements in excess of five thousand dollars are approved by the court;

(e) Entering into contracts necessary for the operation of the nursing home, PROVIDED That, any contracts extending beyond the period of receivership shall be approved by the court;

(f) Preparing all reports required by the department;

(g) Planning with residents and their guardians, family, or significant others, any required relocation;

(h) Meeting regularly with staff, residents, and residents' families to inform them of plans for correcting the deficiencies, progress achieved in correction, plans for facility closure and relocation, or plans for continued operation of the nursing home including the identity of the permanent operator.

(2) The receiver shall consult the court in cases of extraordinary or questionable debts incurred prior to the receiver's appointment and shall not have the power to close the home or sell any assets of the home without prior court approval.

(3) The receiver shall comply with all applicable state and federal laws and regulations. If the nursing home is certified and is providing care to medical assistance clients, the receiver shall become the Medicaid contractor for the duration of the receivership period.

(a) A receiver for a skilled or intermediate care nursing home shall be responsible for complying with the provisions of chapter 74.46 RCW and chapter 388-96 WAC.

(b) A receiver for an intermediate care facility for the mentally retarded (ICF/MR) shall be responsible for complying with the provisions of chapter 74.09 RCW and chapter 275-38 WAC.

(4) The receiver shall be responsible and liable only for the receiver's own gross negligence, intentional wrongdoing, or breach of fiduciary duty to either the residents of the nursing home or the current or former licensee or owner of the nursing home.

#### NEW SECTION

**WAC 388-98-020 TERMINATION OF RECEIVERSHIP.** (1) The department shall recommend to the court the receivership be terminated:

(a) After the end of the appointed term unless good cause is shown to continue the receivership. Good cause for continuing the receivership exists when:

(i) Returning the nursing home to its former operator would subject the residents to a threat to their health, safety, or welfare; and

(ii) A credible replacement operator is negotiating in good faith to purchase or operate the nursing home, but has not yet taken possession or control; or

(b) When all residents have been transferred and the nursing home is closed; or

(c) When all deficiencies which threaten the health, safety, or welfare of the residents have been eliminated and the former operator or owner has agreed to conditions specified by the department regarding the continued operation of the facility; or

(d) When a new licensed operator or owner is available to assume control of the nursing home.

(2) The department shall recommend to the court that all residents be relocated and the nursing home closed when:

(a) Problems exist in the physical condition of the premises which cannot be corrected in an economically prudent manner; or

(b) The department determines the former operator or owner:

(i) Is unwilling or unable to manage the nursing home in a manner which ensures residents' health, safety, and welfare; and

(ii) Has not entered into an enforceable agreement to sell the nursing home within three months of the court's decision to grant receivership.

(3) The department may recommend to the court an alternate receiver be appointed:

(a) When the receiver is no longer willing to serve as a receiver; or

(b) If a receiver is not making acceptable progress in correcting the deficiencies in the nursing home.

#### **WSR 88-03-052**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

#### **(Public Assistance)**

[Order 2587—Filed January 19, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to receivership, new WAC 388-96-771.

I, Leslie F. James, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this new rule is necessary to establish a Medicaid rate for receivers and to compute a reimbursement rate for Medicaid receivers in accordance with chapter 476, Laws of 1987.

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

This rule is promulgated pursuant to RCW 74.09.120 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 19, 1988.

By Leslie F. James, Director  
Administrative Services

### NEW SECTION

**WAC 388-96-771 RECEIVERSHIP.** (1) *If the nursing home is providing care to recipients of state medical assistance, the receiver shall:*

(a) *Become the Medicaid contractor for the duration of the receivership period;*

(b) *Assume all reporting responsibilities for new contractors;*

(c) *Assume all other responsibilities for new contractors set forth in this chapter; and*

(d) *Be responsible for the refund of Medicaid rate payments in excess of costs during the period of receivership.*

(2) *In establishing the prospective rate during receivership the department shall consider:*

(a) *Compensation, if any, ordered by the court for the receiver. Such compensation may already be available to the receiver through the rate as follows:*

(i) *The return on investment, or*

(ii) *The administrator's salary in the case of facilities where the receiver is also the administrator.*

*If these existing sources of compensation are less than what was ordered by the court, additional costs may be allowed in the rate up to the compensation amount ordered by the court.*

(b) *Start-up costs and costs of repairs, replacements, and additional staff needed for patient health, security, and welfare. To the extent such costs can be covered through return on investment, no additional monies will be added to the rate;*

(c) *Any other allowable costs as set forth in this chapter.*

(3)(a) *Upon order of the court, the department shall provide emergency or transitional financial assistance to a receiver not to exceed thirty thousand dollars.*

(b) *The department shall recover any emergency or transitional expenditure from revenue generated by the facility which is not obligated to the operation of the facility.*

(c) *If the department has not fully recovered any emergency or transitional expenditure at the termination of receivership, the department may:*

(i) *File an action against the former licensee or owner to recover such expenditure; or*

(ii) *File a lien on the facility or on the proceeds of the sale of the facility.*

(4) *If recommendations on receiver's compensation are solicited from the department by the court, the department shall consider the following:*

(a) *The range of compensation for nursing home managers;*

(b) *Experience and training of the receiver;*

(c) *The size, location, and current condition of the facility;*

(d) *Any additional factors deemed appropriate by the department.*

(5) *When the receivership terminates, the department may revise the nursing home's Medicaid reimbursement as follows:*

(a) *The Medicaid reimbursement rate for the former owner or licensee shall be what it was prior to receivership. The former owner or licensee may request prospective rate revisions from the department as set forth in this chapter.*

(b) *The Medicaid reimbursement rate for licensed replacement operators shall be determined consistent with rules governing prospective reimbursement rates for new contractors as set forth in this chapter.*

### WSR 88-03-053

#### PROPOSED RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

#### (Public Assistance)

[Filed January 19, 1988]

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 receivership, new WAC 388-96-771;

that the agency will at 10:00 a.m., Thursday, February 25, 1988, in the Auditorium, OB-2, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on February 26, 1988.

The authority under which these rules are proposed is RCW 74.09.120.

The specific statute these rules are intended to implement is RCW 74.09.120.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 25, 1988.

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

Leslie F. James, Director  
Administrative Services  
Department of Social and Health Services  
Mailstop OB 39  
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by February 12, 1988. The meeting site is in a location which is barrier free.

Dated: January 19, 1988

By: Leslie F. James, Director  
Administrative Services

## STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.025.

Re: New WAC 388-96-771, Receivership.

Purpose of this New Rule: To implement chapter 476, Laws of 1987, regarding receivership in nursing homes.

Reason this Rule is Necessary: To facilitate receivership being established in nursing homes subject to licensure revocation or suspension, or decertification from the Medicaid program. This rule provides for the financial basis of receivership, and may assist in preventing the closure of the nursing home or relocation of residents.

Statutory Authority: RCW 74.09.120 and sections 9 through 21, chapter 476, Laws of 1987.

Summary of the New Rule: WAC 388-96-771 specifies a receiver shall become the Medicaid contractor for a nursing home and is subject to all contractor requirements. It describes what the department will consider in establishing a reimbursement rate for the nursing home during receivership. This rule permits the department to provide emergency financial assistance to a nursing home in receivership, and specifies how such assistance may be recovered. WAC 388-96-771 also states the department's considerations for recommending receiver's compensation.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Mike Wills, Director, Residential Rates and Licensure Services, Aging and Adult Services Administration, Department of Social and Health Services, Olympia, Washington 98504, mailstop HB-11, phone (206) 753-5840.

Person or Organization Other than DSHS who Proposed These Rules: None.

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

Emergency adoption of these rules is necessary to be able to immediately provide a substantial improvement to nursing home clients. Should receivership action become necessary before permanent adoption of this rule, a Medicaid rate may be established and emergency transitional financial assistance may be provided for a receiver, thereby preventing closure of a nursing home or relocation of its residents.

NEW SECTION

WAC 388-96-771 RECEIVERSHIP. (1) If the nursing home is providing care to recipients of state medical assistance, the receiver shall:

- (a) Become the Medicaid contractor for the duration of the receivership period;
- (b) Assume all reporting responsibilities for new contractors;
- (c) Assume all other responsibilities for new contractors set forth in this chapter; and
- (d) Be responsible for the refund of Medicaid rate payments in excess of costs during the period of receivership.

(2) In establishing the prospective rate during receivership the department shall consider:

(a) Compensation, if any, ordered by the court for the receiver. Such compensation may already be available to the receiver through the rate as follows:

- (i) The return on investment, or
- (ii) The administrator's salary in the case of facilities where the receiver is also the administrator.

If these existing sources of compensation are less than what was ordered by the court, additional costs may be allowed in the rate up to the compensation amount ordered by the court.

(b) Start-up costs and costs of repairs, replacements, and additional staff needed for patient health, security, and welfare. To the extent such costs can be covered through return on investment, no additional monies will be added to the rate;

(c) Any other allowable costs as set forth in this chapter.

(3)(a) Upon order of the court, the department shall provide emergency or transitional financial assistance to a receiver not to exceed thirty thousand dollars.

(b) The department shall recover any emergency or transitional expenditure from revenue generated by the facility which is not obligated to the operation of the facility.

(c) If the department has not fully recovered any emergency or transitional expenditure at the termination of receivership, the department may:

(i) File an action against the former licensee or owner to recover such expenditure; or

(ii) File a lien on the facility or on the proceeds of the sale of the facility.

(4) If recommendations on receiver's compensation are solicited from the department by the court, the department shall consider the following:

(a) The range of compensation for nursing home managers;

(b) Experience and training of the receiver;

(c) The size, location, and current condition of the facility;

(d) Any additional factors deemed appropriate by the department.

(5) When the receivership terminates, the department may revise the nursing home's Medicaid reimbursement as follows:

(a) The Medicaid reimbursement rate for the former owner or licensee shall be what it was prior to receivership. The former owner or licensee may request prospective rate revisions from the department as set forth in this chapter.

(b) The Medicaid reimbursement rate for licensed replacement operators shall be determined consistent with rules governing prospective reimbursement rates for new contractors as set forth in this chapter.

**WSR 88-03-054****PROPOSED RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES****(Public Assistance)**

[Filed January 19, 1988]

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 nursing home licensure program administration, amending chapter 388-98 WAC;

that the agency will at 10:00 a.m., Thursday, February 25, 1988, in the Auditorium, OB-2, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on February 25, 1988.

The authority under which these rules are proposed is RCW 18.51.070.

The specific statute these rules are intended to implement is chapter 18.51 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 12, 1988.

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

Leslie F. James, Director  
Administrative Services  
Department of Social and Health Services  
Mailstop OB 39  
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by February 12, 1988. The meeting site is in a location which is barrier free.

Dated: January 19, 1988  
By: Leslie F. James, Director  
Administrative Services

### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.025.

Re: New WAC 388-98-005 Receivership; 388-98-010 List of qualified receivers; 388-98-015 Duties and powers of receivers; and 388-98-020 Termination of receivership.

Purpose of These New Rules: To implement chapter 476, Laws of 1987, regarding receivership in nursing homes.

Reason These Rules are Necessary: To facilitate receivership being established in nursing homes subject to licensure revocation or suspension, or decertification from the Medicaid program. Establishing receivership in such homes may prevent the closure of the nursing home or relocation of residents.

Statutory Authority: RCW 18.51.070 and sections 9 through 21, chapter 476, Laws of 1987.

Summary of New Rules: WAC 388-98-005 specifies the conditions under which the department would file a petition for receivership in a nursing home, also specifies what the department will request the court to order if the petition is granted; 388-98-010 states how the department may recruit prospective receivers and how the department shall establish a list of qualified receivers, also lists the qualifications which potential receivers must possess; 388-98-015 explains the duties and powers of a receiver; and 388-98-020 specifies the conditions under which the department would recommend to the court termination of receivership.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Mike Wills, Director, Residential Rates and Licensure Services, Aging and Adult Services Administration, Department of Social and Health Services, Olympia, Washington 98504, mailstop HB-11, phone (206) 753-5840.

Person or Organization Other than DSHS who Proposed These Rules: None.

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

Emergency adoption of these rules is necessary to be able to immediately provide a substantial improvement to nursing home clients. Should receivership action become necessary before permanent adoption occurs, clients will be protected.

### NEW SECTION

WAC 388-98-005 RECEIVERSHIP. (1) The department may file a petition in superior court of Thurston County, or in superior court of the county in which the nursing home is located, to establish receivership for a nursing home. The department shall allege in the

petition one or more of the following conditions is present and the current operator has demonstrated an inability or unwillingness to take necessary corrective action:

(a) The nursing home is operating without a license; or  
(b) The nursing home has not given the department 60 days written notice prior to its intended closure date and has not made arrangements within 30 days before closure for the orderly transfer of its residents; PROVIDED THAT, if the nursing home has given the department 60 days prior written notice, but the department has not acted with all deliberate speed to transfer the residents, no petition for receivership shall be filed for the nursing home's failure to make arrangements for transferring residents; or

(c) A condition exists in a nursing home which demonstrates an immediate and serious threat of harm to the health, security, safety, or welfare of the residents including, but not limited to abandonment of the nursing home by the owner or operator; or

(d) The nursing home demonstrates a persistent pattern or practice of noncompliance with the requirements of chapter 18.51, 74.42 RCW, or other statutes, or standards and regulations adopted by the department designed to safeguard the health, security, or welfare of residents such that the nursing home has demonstrated a repeated inability to maintain minimum patient care standards; or

(e) The nursing home repeatedly demonstrated a limited capacity to furnish an adequate level or quality of care.

(2) If the department files a petition under the conditions described in subsection (1) of this section, the department shall request the court to:

(a) Restrain the licensee from continued operation of the nursing home; and

(b) Order the licensee to be divested of all possession and control of the nursing home including, but not limited to, all patient care records, financial records, and other records necessary for the continued operation of the nursing home, during the time the receivership is in effect; and

(c) Grant the receiver the authority to temporarily relocate some or all of the residents:

(i) If the receiver determines the resident's health, security, or welfare is jeopardized;

(ii) During the time the receivership is in effect; and

(iii) If the department concurs with the receiver's determination relocation is necessary.

(3) The department is not required to file a petition for receivership when the physical condition of the premises is such that closure of the nursing home would be more prudent than continued operation.

### NEW SECTION

WAC 388-98-010 LIST OF QUALIFIED RECEIVERS. (1) The department may recruit individuals, partnerships, and corporations interested in serving as a receiver of a nursing home. Recruitment may be in the form of personal letters, radio or television announcements, or advertisements in publications determined suitable by the department.

(2) Any individual, partnership, or corporation desiring to be a receiver shall complete the sections designated by the department of an application for a nursing home license.

(3) Any individual, partnership, or corporation with experience in providing long-term health care and a history of satisfactory operation of a nursing home may submit an application to the department at any time to serve as a receiver. Applicants shall be subject to the criteria established for licensees found in Washington Administrative Code 248-14-080, except the department may waive on a case-by-case basis the requirement for having 60 days to review the application.

(4) The department shall maintain a list of qualified potential receivers. The department shall add names of qualified applicants to the list upon receipt of an application properly completed by the applicant and approved by the department. The department shall update the list by July 1 of each year. Updating shall verify:

(a) Information on the application is still current; and

(b) The individual, partnership, or corporation remains interested in serving as a receiver.

(5) Individuals, partnerships, or corporations failing to update their application as requested by the department shall not be considered as potential receivers unless a new application is submitted to the department.

(6) The department shall not consider as a receiver any person, partnership, or corporation which:

(a) Is the licensee, administrator, or partner, officer, director, managing employee, or owner of five percent or more of the assets of the nursing home subject to receivership; or

(b) Is affiliated with the nursing home subject to receivership; or

(c) Has owned or operated a nursing home that has been ordered into receivership in any state; or

(d) Has owned or operated a nursing home against which decertification action or licensure suspension or revocation proceedings have been initiated or have been in effect within two years preceding the filing of the receivership petition.

(7) The department may recommend to the court a receiver from the list. In making the recommendation, any one or more of the following factors may be considered:

(a) The potential receiver's willingness to serve as a receiver for the nursing home in question;

(b) The amount and quality of the potential receiver's experience in long term care;

(c) The quality of care, as determined by prior survey reports, provided under the potential receiver's supervision or management;

(d) The potential receiver's prior performance as a receiver;

(e) How soon the potential receiver would be available to act as a receiver;

(f) The potential receiver's familiarity and past compliance with Washington state regulations applicable to nursing homes;

(g) The potential receiver's economic potential and interest in operating the nursing home on a permanent basis;

(h) Preference may be given to potential receivers expressing an interest in the permanent operation of the nursing home.

#### NEW SECTION

##### WAC 388-98-015 DUTIES AND POWERS OF RECEIVER.

(1) The receiver shall protect the health, security, and welfare of the residents for the duration of the receivership. The receiver shall perform all acts reasonably necessary to ensure residents' needs are met. Such acts may include, but are not limited to:

(a) Correcting deficiencies cited by the department;

(b) Hiring, directing, managing, and discharging all consultants and employees for just cause, discharging the administrator of the nursing home, recognizing collective bargaining agreements, and settling labor disputes;

(c) Receiving and expending in a prudent and businesslike manner all revenues and financial resources of the home, provided that priority shall be given to debts and expenditures directly related to providing care and meeting residents' needs;

(d) Making necessary purchases, repairs, and replacements, provided that expenditures for purchases, repairs, or replacements in excess of five thousand dollars are approved by the court;

(e) Entering into contracts necessary for the operation of the nursing home; PROVIDED That, any contracts extending beyond the period of receivership shall be approved by the court;

(f) Preparing all reports required by the department;

(g) Planning with residents and their guardians, family, or significant others, any required relocation;

(h) Meeting regularly with staff, residents, and residents' families to inform them of plans for correcting the deficiencies, progress achieved in correction, plans for facility closure and relocation, or plans for continued operation of the nursing home including the identity of the permanent operator.

(2) The receiver shall consult the court in cases of extraordinary or questionable debts incurred prior to the receiver's appointment and shall not have the power to close the home or sell any assets of the home without prior court approval.

(3) The receiver shall comply with all applicable state and federal laws and regulations. If the nursing home is certified and is providing care to medical assistance clients, the receiver shall become the Medicaid contractor for the duration of the receivership period.

(a) A receiver for a skilled or intermediate care nursing home shall be responsible for complying with the provisions of chapter 74.46 RCW and chapter 388-96 WAC.

(b) A receiver for an intermediate care facility for the mentally retarded (ICF/MR) shall be responsible for complying with the provisions of chapter 74.09 RCW and chapter 275-38 WAC.

(4) The receiver shall be responsible and liable only for the receiver's own gross negligence, intentional wrongdoing, or breach of fiduciary duty to either the residents of the nursing home or the current or former licensee or owner of the nursing home.

#### NEW SECTION

WAC 388-98-020 TERMINATION OF RECEIVERSHIP. (1) The department shall recommend to the court the receivership be terminated:

(a) After the end of the appointed term unless good cause is shown to continue the receivership. Good cause for continuing the receivership exists when:

(i) Returning the nursing home to its former operator would subject the residents to a threat to their health, safety, or welfare; and

(ii) A credible replacement operator is negotiating in good faith to purchase or operate the nursing home, but has not yet taken possession or control; or

(b) When all residents have been transferred and the nursing home is closed; or

(c) When all deficiencies which threaten the health, safety, or welfare of the residents have been eliminated and the former operator or owner has agreed to conditions specified by the department regarding the continued operation of the facility; or

(d) When a new licensed operator or owner is available to assume control of the nursing home.

(2) The department shall recommend to the court that all residents be relocated and the nursing home closed when:

(a) Problems exist in the physical condition of the premises which cannot be corrected in an economically prudent manner; or

(b) The department determines the former operator or owner:

(i) Is unwilling or unable to manage the nursing home in a manner which ensures residents' health, safety, and welfare; and

(ii) Has not entered into an enforceable agreement to sell the nursing home within three months of the court's decision to grant receivership.

(3) The department may recommend to the court an alternate receiver be appointed:

(a) When the receiver is no longer willing to serve as a receiver; or

(b) If a receiver is not making acceptable progress in correcting the deficiencies in the nursing home.

#### WSR 88-03-055

##### ADOPTED RULES

#### DEPARTMENT OF REVENUE

[Order 88-1—Filed January 19, 1988]

I, Greg Pierce, deputy director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Commercial deep sea fishing—Commercial passenger fishing—Diesel fuel, amendatory section WAC 458-20-176.

This action is taken pursuant to Notice Nos. WSR 87-22-078 and 88-01-051 filed with the code reviser on November 4, 1987, and December 15, 1987. 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 82.32.300 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 January 19, 1988.

By Greg Pierce  
Deputy Director

AMENDATORY SECTION (Amending Order ET 83-16, filed 3/15/83)

WAC 458-20-176 (~~PERSONS ENGAGED IN THE BUSINESS OF CONDUCTING COMMERCIAL DEEP SEA FISHING OPERATIONS OUTSIDE THE TERRITORIAL WATERS OF WASHINGTON~~) COMMERCIAL DEEP SEA FISHING—COMMERCIAL PASSENGER FISHING—DIESEL FUEL. (1) DEFINITIONS. As used herein:

~~((The terms "such persons" and "such businesses" mean the persons and businesses described in the title of this rule.))~~ (a) "Commercial deep sea fishing" means fishing done for profit outside the territorial waters of the state of Washington. ~~((The terms do))~~ It does not include sport ~~((fishermen nor persons operating))~~ fishing or the operation of charter boats for sport fishing. (See WAC 458-20-183 for tax liability of such persons.) Nor ~~((do))~~ does the ~~((terms))~~ phrase include ~~((persons who operate))~~ the operation or purchase of watercraft for kelping, purse seining, or gill netting, because such fishing methods can be legally ~~((engaged in))~~ performed in Washington only within the territorial waters of the state (the three-mile limit). Therefore, watercraft rigged for fishing by any of these methods will be deemed for use in other than commercial deep sea fishing unless proof, including documentation to be retained by sellers, is furnished that said watercraft will be used for these purposes exclusively outside the Washington territorial limit.

~~((The term))~~ (b) "Watercraft" means every type of floating equipment which is designed for the purpose of carrying therein or therewith fishing gear, fish catch or fishing crews, and used primarily in commercial deep sea fishing operations ~~((outside the territorial waters of the state of Washington)).~~

~~((The term))~~ (c) "Component part" includes all tangible personal property which is attached to and a part of a watercraft. It includes dories, gurdies and accessories, bait tanks, baiting tables and turntables. It also includes spare parts which are designed for ultimate attachment to a watercraft. The said term does not include equipment or furnishings of any kind which are not attached to a watercraft, nor does it include consumable supplies. Thus it does not include, among other things, bedding, table and kitchen wares, fishing nets, hooks, lines, floats, hand tools, ice, fuel or lubricants.

(d) "Commercial passenger fishing" means that done from charter boats for sport outside the territorial waters of the state of Washington.

(2) BUSINESS AND OCCUPATION TAX.

~~((Such))~~ (a) Persons engaged in commercial deep sea fishing are not taxable under the extracting classification with respect to catches obtained outside the territorial waters of this state.

(b) Such persons are taxable under either the retailing or the wholesaling classification with respect to sales made within this state, unless entitled to exemption by reason of the commerce clauses of the federal constitution. (See WAC 458-20-193.)

(3) RETAIL SALES TAX.

(a) By reason of the exemption contained in RCW ~~((82.08.030(H)))~~ 82.08.0262, the retail sales tax does not apply upon sales of watercraft (including component parts thereof) which are primarily for use in conducting commercial deep sea fishing operations ~~((outside the territorial waters of this state)),~~ nor does said tax apply to sales of or charges made for labor and services rendered in respect to the constructing, repairing, cleaning, altering or improving of such property.

(b) The retail sales tax applies upon sales made to ~~((such))~~ persons engaged in commercial deep sea fishing of every other type of tangible personal property and upon sales of or charges made for labor and services rendered in respect to the construction, repairing, cleaning, altering or improving of such other types of property. Thus, the retail sales tax applies upon sales to such persons of such things as fishing nets, hooks, lines, floats and bait; table and kitchen wares; hand tools, ice, fuel except diesel fuel as noted below, and lubricants for use or consumption, except only sales of watercraft and component parts thereof. For sales of food products see WAC 458-20-119 and 458-20-244.

(4) EXEMPTION CERTIFICATES REQUIRED.

(a) Persons selling watercraft or component parts thereof to ~~((such))~~ persons engaged in commercial deep sea fishing or performing services with respect to ~~((the same))~~ such craft or parts, are required to obtain from the purchaser a certificate evidencing the exempt nature of the transaction. This certificate must identify the purchaser by name and address, and by name of the watercraft with respect to which the purchase is made, and must contain a statement to the effect that the property purchased or repaired is for use primarily in commercial deep sea fishing operations.

(b) The certificate should be in substantially the following form:

EXEMPTION CERTIFICATE

I HEREBY CERTIFY that the ..... this day ordered from or purchased from you, will be used primarily in commercial deep sea fishing operations outside the territorial waters of the State of Washington; that the vessel is not for fishing inside such territorial waters, and is not rigged or equipped for such fishing; that the registered name of the ~~((water-craft))~~ watercraft to which said purchase applies is ..... (name of fishing boat) .....; and that said sale is entitled to exemption under the provisions of RCW 82.08.0262.

Dated ....., 19...

.....  
(Name of Purchaser)

By .....  
(Name of officer or agent)

Address .....

(c) Incidental use within the waters of this state of fishing boats which are used primarily in deep sea fishing operations, will not deprive the owners thereof of the statutory exemption from the retail sales tax.

(d) In the event the fishing boat with respect to which an exemption is claimed is of a type used in the waters of Puget Sound or the Columbia River and the tributaries thereof, and is not practical for use in deep sea fishing, sellers should collect the retail sales tax upon all sales of such boats and component parts thereof and upon charges made for the repair of the same.

(e) It is a gross misdemeanor for a buyer to make a false certificate of exemption for the purpose of avoiding the tax.

(5) USE TAX.

(a) The use tax does not apply upon the use of watercraft or component parts thereof.

(b) The use tax does apply upon the actual use within this state of all other types of tangible personal property purchased at retail and upon which the sales tax has not been paid (see WAC 458-20-178) except on diesel fuel as noted below.

(6) DIESEL FUEL.

(a) The law provides for sales and use tax exemptions on diesel fuel for both commercial passenger fishing (charter boats for sport fishing) and commercial deep sea fishing operations.

(b) Neither retail sales nor use tax applies with respect to sales or use of diesel fuel in the operation of watercraft in commercial deep sea fishing operations or commercial passenger fishing operations by persons who are regularly engaged in the business of such operations outside the territorial waters (three-mile limit) of this state. For purposes of this exemption a person is not regularly engaged in either business if the person has gross receipts from the extra territorial operations of less than five thousand dollars a year. For persons involved in both commercial deep sea fishing operations and commercial passenger fishing operations, the receipts from both shall be added together to determine eligibility for this exemption.

(c) This exemption is plenary in scope and it is not required that all of the diesel fuel purchased be used outside of the territorial waters of this state. If a person qualifies for the exemptions by virtue of operating a deep sea fishing vessel, and has the requisite amount of gross receipts from that activity, all diesel fuel purchases and uses by such person for such vessel are tax exempt.

(d) DIESEL FUEL EXEMPTION CERTIFICATES REQUIRED. Persons selling diesel fuel to such persons are required to obtain from the purchaser a certificate evidencing the exempt nature of the transaction. This certificate must identify the purchaser by name and address, and by the registered name and number of the watercraft with respect to which the purchase is made. It must contain a statement to the effect that the diesel fuel is for use by a person who is engaged in commercial deep sea fishing and/or commercial passenger fishing operations who has annual gross receipts therefrom of at least five thousand dollars. Blanket certificates covering all diesel fuel purchases for specified watercraft may be used, where appropriate. A seller of diesel fuel who accepts such a certificate in good faith shall not be liable for sales tax on the diesel fuel sold. Certificates must be retained by the sellers in their permanent records as evidence of the exempt nature of diesel sales to eligible buyers. It is a

gross misdemeanor for a buyer to make a false certificate of exemption for the purpose of avoiding the tax.

(e) The certificate should be in substantially the following form:

DIESEL FUEL EXEMPTION CERTIFICATE

I HEREBY CERTIFY that diesel fuel which I will purchase from (name of dealer) will be used in the operation of a watercraft which is used in commercial deep sea or commercial passenger fishing operations outside the territorial waters of the state of Washington; that the registered name and number of the watercraft to which said purchase applies is (registered vessel name and number); that the owner(s) of said vessel has gross income, based on federal income tax returns, of not less than five thousand dollars a year from such extra territorial fishing operations; and that said sales are entitled to exemption under the provisions of chapter 494, Laws of 1987.

Dated . . . . ., 19 . . . . .

.....  
(Name of Purchaser)

By .....  
(Name of officer or agent)

Address .....

WSR 88-03-056  
PROPOSED RULES  
STATE PATROL  
[Filed January 19, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Patrol intends to adopt, amend, or repeal rules concerning Washington State Patrol criminal records, implementing chapter 486, Laws of 1987, codified as RCW 43.43.838; that the agency will at 1:30 p.m., Friday, February 26, 1988, in the DSHS Auditorium, Office Building #2, 12th and Adams Streets, 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 March 17, 1988.

The authority under which these rules are proposed is section 5, chapter 486, Laws of 1987, codified as RCW 43.43.838(5).

The specific statute these rules are intended to implement is RCW 43.43.838.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 26, 1988.

Dated: January 19, 1988  
By: George B. Tellevik  
Chief

STATEMENT OF PURPOSE

Title: Criminal records; Employment—Conviction records; Child and adult abuse information.

Authority: Section 5, chapter 486, Laws of 1987, codified as RCW 43.43.838, allows the Washington State

Patrol to establish fees and adopt rules and forms to provide transcripts of conviction records of certain crimes against persons, of disciplinary board final decisions, and of civil adjudications. The transcripts may be provided to certain businesses and organizations; the State Board of Education; and the Department of Social and Health Services for specified purposes upon written request. These rules conform with the State Criminal Records Privacy Act (chapter 10.97 RCW).

Summary: Adoption of these rules will establish procedures for obtaining certain types of criminal conviction records, disciplinary board final decisions, and civil adjudications. These record checks are to be used only for making an initial employment or engagement decision. The intent of the legislation is to give employers considering the hiring of employees who work with children or developmentally disabled persons adequate information to prevent child and adult abuse.

Agency Personnel Responsible for Drafting: Sergeant James F. Dickerman, Washington State Patrol, Fiscal Office, General Administration Building, AX-12, Olympia, Washington 98504-0612, phone 753-6550; Implementation and Enforcement: Lieutenant Herb E. Howe, Washington State Patrol, Identification Section, P.O. Box 2527, QE-02, Olympia, Washington 98507-2527, phone 753-6827.

Agency Comments: Passage of chapter 486, Laws of 1987, gives employers, for the first time, a prescreening tool to use when considering the hiring of employees who will work with children and developmentally disabled persons. Similar legislation has been enacted by other states and provides a method to reduce abuse of children and developmentally disabled persons.

Government: Second Substitute Senate Bill 5063, chapter 486, Laws of 1987, enacted by the legislature of the state of Washington.

Small Business Economic Impact: Adoption of this act will have a minimal economic impact upon private business in our state. The record checks are optional, with a \$10 fee being charged to private business for each request. Nonprofit organizations, school districts, and educational service districts are exempt from this fee. The only mandatory record check is by the State Board of Education upon initial application for certification. This mandatory record check is at the applicant's expense.

Request for criminal history record information forms and optional applicant fingerprint cards are provided at no cost by the State Patrol. The employer is required to provide a copy of the record check to the prospective employee (minimal cost of photocopying and mailing is estimated at 50 cents per applicant). The act allows dissemination of this information to businesses or organizations licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, or provides recreation to developmentally disabled persons or children under 16 years of age, including school districts and educational service districts. Record checks are for initial employment decisions only; an identification certificate is issued by the State Patrol to an applicant who has no record. Possession of such identification shall satisfy future background check requirements for the applicant.

A benefit that may be derived in time by the employer is a reduction in liability insurance costs, if the insurer does not experience a claim related to child abuse due to consistent and conscientious prescreening of prospective employees. Of even greater importance is that persons convicted of crimes against persons may be identified through this check prior to employment, thereby preventing other persons from being abused.

In conclusion, this act does not have an adverse economic impact on business. The increased public safety benefits that may be provided to young persons or developmentally disabled adults in the state of Washington far outweigh the minimal costs associated with implementing this type of record check.

#### AMENDATORY SECTION (Amending Order 80-2, filed 7/1/80)

WAC 446-20-020 DEFINITIONS. (1) The definitions in RCW 10.97.030 shall apply to these regulations.

(2) "Nonconviction data" has the meaning set forth in RCW 10.97.030(2), but shall not include dismissals following a period of probation, or suspension, or deferral of sentence.

(3) "The administration of criminal justice" has the meaning set forth in RCW 10.97.030(6), but does not include crime prevention activities (if that is the sole function of the program or agency) or criminal defense activities.

(4) The definitions as enumerated in chapter 486, Laws of 1987, "AN ACT Relating to child and adult abuse information", shall apply whenever applicable in these regulations.

#### NEW SECTION

WAC 446-20-285 EMPLOYMENT—CONVICTION RECORDS; CHILD AND ADULT ABUSE INFORMATION. After January 1, 1988, certain child and adult abuse conviction information will be furnished by the state patrol upon the submission of a written request of any applicant, business or organization, the state board of education, or the department of social and health services. This information will consist of the following:

- (1) Certain convictions of crimes against persons;
- (2) Department of licensing disciplinary board final decisions of specific findings of physical or sexual abuse or exploitation of a child; and
- (3) Civil adjudications of child abuse.

This information will be furnished, consistent with the provisions of chapter 486, Laws of 1987, on an approved Request for Criminal History Information form available from the Washington State Patrol, P. O. Box 2527, Olympia, Washington, 98507-2527. Legible reproductions of this form will be allowable.

The state patrol shall also furnish any similar records maintained by the Federal Bureau of Investigation or records in custody of the National Crime Information Center, if available, subject to their policies and procedures regarding such dissemination.

(a) For positive identification, the Request for Criminal History Information form may be accompanied by fingerprint cards of a type specified by the Washington state patrol identification section, and shall contain a certification by the applicant; the business or organization; the state board of education; or the department of social and health services, that the information is being requested and will be used only for the purposes as enumerated in chapter 486, Laws of 1987.

(b) The business or organization making such request shall not make an inquiry to the Washington state patrol or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who has been offered a position as an employee or volunteer that an inquiry may be made.

(c) In the absence of fingerprint cards, the applicant may provide a right thumb fingerprint impression in the area provided on the Request for Criminal History Information form. In the event of a possible match, where the applicant's name and date of birth as submitted varies from that of the record contained by the identification section, the right thumb fingerprint impression will be used for identification verification purposes only. An exact name and date of birth match will be required for dissemination of conviction information in the absence of

a fingerprint card or thumbprint impression for positive identification or verification of record.

(d) After processing a properly completed Request for Criminal History Information form, if the conviction record, disciplinary board final decision, adjudication record, or equivalent response from a federal law enforcement agency shows no evidence of crimes against persons, an identification declaring the showing of no evidence shall be issued to the applicant by the state patrol within fourteen calendar days of receipt of the request. Possession of such identification shall satisfy future background check requirements for the applicant.

(e) The business or organization shall notify the applicant of the state patrol's response within ten calendar days after receipt by the business or organization. The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

(f) The business or organization shall be immune from civil liability for failure to request background information on a prospective employee or volunteer unless the failure to do so constitutes gross negligence.

#### AMENDATORY SECTION (Amending Order 82-5, filed 10/22/82)

WAC 446-20-290 FEES. (1) A nonrefundable fee of ten dollars shall accompany each (fingerprnt card) request for conviction records submitted pursuant to chapter 202, Laws of 1982 and chapter 486, Laws of 1987, unless through prior arrangement an account is authorized and established. Fees are to be made payable to the "Washington State Patrol", and are to be remitted only by cashier's check, money order or check written on a commercial business account. The Washington state patrol identification section shall adjust the fee schedule as may be practicable to ensure that direct and indirect costs associated with the provisions of (this chapter) these chapters are recovered.

(2) Pursuant to provisions of chapter 486, Laws of 1987, no fees will be charged to a nonprofit organization, including school districts and educational service districts, for the request for conviction records.

#### AMENDATORY SECTION (Amending Order 82-5, filed 10/22/82)

WAC 446-20-300 PRIVACY—SECURITY. (1) All employers or prospective employers receiving conviction records pursuant to chapter 202, Laws of 1982, shall comply with the provisions of WAC 446-20-210 through 446-20-250 relating to privacy and security of the records.

(2) Businesses or organizations, the state board of education, and the department of social and health services receiving conviction records of crimes against persons, disciplinary board final decision information, or a civil adjudication record pursuant to chapter 486, Laws of 1987, shall comply with the provisions of WAC 446-20-210 through 446-20-250 relating to privacy and security of the records.

(a) The business or organization shall use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited. A business or organization violating this prohibition is subject to civil action for damages.

(b) No employee of the state, employee of a business or organization, or the organization is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information under sections 1 through 6, chapter 486, Laws of 1987, or RCW 43.43.760.

#### AMENDATORY SECTION (Amending Order 82-5, filed 10/22/82)

WAC 446-20-310 AUDITS. (1) All employers or prospective employers receiving conviction records pursuant to chapter 202, Laws of 1982, shall comply with the provisions of WAC 446-20-260 through 446-20-270 relating to audit of the record keeping system.

(2) Businesses or organizations, the state board of education and the department of social and health services receiving conviction records of crimes against persons, disciplinary board final decision information or civil adjudication records pursuant to chapter 486, Laws of 1987, shall comply with the provisions of WAC 446-20-260 through 446-20-270 relating to audit of the record keeping system.

#### WSR 88-03-057

#### PROPOSED RULES

### DEPARTMENT OF AGRICULTURE (Noxious Weed Control Board)

[Filed January 20, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Noxious Weed Board intends to adopt, amend, or repeal rules concerning the state noxious weed list and schedule of monetary penalties, chapter 16-750 WAC;

that the agency will at 10:00 a.m., Wednesday, February 24, 1988, in the Kittitas County Commissioners Auditorium, 5th and Main, Ellensburg, Washington 98926, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 4, 1988.

The authority under which these rules are proposed is chapter 17.10 RCW, as amended by sections 8 and 28, chapter 438, Laws of 1987.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 24, 1988, to Catherine Hovanic, Executive Secretary, State Noxious Weed Board, 1313 West Meeker, Suite 111, P.O. Box 1064, Kent, WA 98035.

Dated: January 20, 1988

By: Art Losey

Chairperson Pro tem

#### STATEMENT OF PURPOSE

Title: Chapter 16-750 WAC.

Description of Purpose: The State Noxious Weed Board has established a noxious weed list comprising the names of those plants determined to be highly destructive, competitive or difficult to control by cultural or chemical means.

Statutory Authority: Chapter 17.10 RCW.

Summary of Rules: The amendatory changes classify weeds by class which are determined to be highly destructive, competitive or difficult to control.

Reasons for Supporting Proposed Rules: The State Noxious Weed Board is required by chapter 17.10 RCW to adopt a state noxious weed list.

Personnel Responsible for Drafting and Implementing Rules: State Noxious Weed Board, Arlie Clinkenbeard, Chairman, 149 Third North, Okanogan, WA 98840, phone (509) 422-3521.

Agency Personnel Responsible for Enforcing Rules: Art G. Losey, Washington State Department of Agriculture, Assistant Director, 406 General Administration Building, AX-41, Olympia, WA 98504, phone (206) 753-5062.

Persons Proposing Rules: State Noxious Weed Board.  
Comments: None.

Rules Necessary to Comply with Federal Law: No.  
Small Business Economic Impact Statement: None.

#### NEW SECTION

WAC 16-750-001 STATE NOXIOUS WEED LIST—PURPOSE. In accordance with RCW 17.10.080 a state noxious weed list comprising the names of those plants which the state noxious weed control board finds to be highly destructive, competitive, or difficult to

control by cultural or chemical practices is hereby adopted in this chapter.

**NEW SECTION**

WAC 16-750-005 STATE NOXIOUS WEED LIST—CLASS A NOXIOUS WEEDS. Class A noxious weeds are as follows:

(1) All those weeds which have not been reported in the state of Washington as of January 1, 1984, and whose introduction to the state of Washington was not intentional, or whose intentional introduction poses a serious threat to the state for which no control is assured and which is included in one or more of the following publications:

(a) "A Checklist of Names for 3000 Vascular Plants of Economic Importance," by Edward E. Terrell, Steven R. Hill, John H. Wiersma and William E. Rice. USDA-ARS Ag. handbook number 505, revised October 1986;

(b) "A Geographical Atlas of World Weeds," by LeRoy Holm, Juan V. Pancho, James P. Herberger and Donald L. Plucknett. John Wiley and Sons, New York, 1979;

(c) "The World's Worst Weeds, Distribution and Biology," by LeRoy G. Holm, Donald L. Plucknett, Juan V. Pancho and James P. Herberger. University Press of Hawaii, Honolulu, 1977;

(d) "Economically Important Foreign Weeds—Potential Problems in the United States," by Clyde F. Reed, USDA-ARS Ag. handbook number 498, 1977;

(e) The federal noxious weed list, 7.360.200 CFR;

(f) The state noxious weed list of any state; and

(2)

COMMON NAME	SCIENTIFIC NAME
blueweed, Texas	<i>Helianthus ciliaris</i>
buffalobur	<i>Solanum rostratum</i>
crupina, common	<i>Crupina vulgaris</i>
garden rocket	<i>Eruca vesicaria</i> spp. sativa
hedgearsley	<i>Torilis arvensis</i>
johnsongrass	<i>Sorghum halepense</i>
knapweed, bighead	<i>Centaurea macrocephala</i>
knapweed, featherhead	<i>Centaurea trichocephala</i>
knapweed, Vochin	<i>Centaurea nigrescens</i>
mallow, Venice	<i>Hibiscus trionum</i>
nightshade, silverleaf	<i>Solanum elaeagnifolium</i>
rupturewort	<i>Herniaria cineria</i>
snapdragon, dwarf	<i>Chaenorrihinum minus</i>
unicorn-plant	<i>Proboscidea louisianica</i>
velvetleaf	<i>Abutilon theophrasti</i>
woad, dyers	<i>Isatis tinctoria</i>

**NEW SECTION**

WAC 16-750-011 STATE NOXIOUS WEED LIST—CLASS B NOXIOUS WEEDS. Class B noxious weeds are as follows:

COMMON NAME	SCIENTIFIC NAME
apera, interrupted	<i>Apera interrupta</i>
blueweed	<i>Echium vulgare</i>
broom, Scotch	<i>Cytisus scoparius</i>
bryony, white	<i>Bryonia alba</i>
bugloss, common	<i>Anchusa officinalis</i>
camelthorn	<i>Alhagi pseudalhagi</i>
catsear, spotted	<i>Hypochoeris radicata</i>
daisy, oxeeye	<i>Chrysanthemum leucanthemum</i>
dogtailgrass, hedgehog	<i>Cynosurus echinatus</i>
foxtail, slender	<i>Alopecurus myosuroides</i>
goatgrass, jointed	<i>Aegilops cylindrica</i>
gorse	<i>Ulex europaeus</i>
hawkweed, orange	<i>Hieracium aurantiacum</i>
hawkweed, yellow	<i>Hieracium pratense</i>
indigobush	<i>Amorpha fruticosa</i>
knapweed, black	<i>Centaurea nigra</i>
knapweed, brown	<i>Centaurea jacea</i>
knapweed, diffuse	<i>Centaurea diffusa</i>
knapweed, meadow	<i>Centaurea jacea</i> X <i>nigra</i>
knapweed, Russian	<i>Centaurea repens</i>
knapweed, spotted	<i>Centaurea maculosa</i>
lepyrodielis	<i>Lepyrodielis holosteoides</i>
lythrum, purple	<i>Lythrum salicaria</i>
medusahead	<i>Taeniatherum caput-medusae</i>
nutsedge, yellow	<i>Cyperus esculentus</i>
oxtongue, hawkweed	<i>Picris hieracioides</i>
peaweed, Austrian	<i>Sphaerophysa salsula</i>
pepperweed, perennial	<i>Lepidium latifolium</i>

**COMMON NAME**

ragwort, tansy  
sage, Mediterranean  
sandbur, longspine  
skeletonweed, rush  
sowthistle, perennial  
spurge, leafy  
starthistle, yellow  
thistle, musk  
thistle, plumeless  
thistle, Scotch  
toadflax, Dalmatian  
ventenata  
watermilfoil, Eurasian

**SCIENTIFIC NAME**

*Senecio jacobaea*  
*Salvia aethiopsis*  
*Cenchrus longispinus*  
*Chondrilla juncea*  
*Sonchus arvensis*  
*Euphorbia esula*  
*Centaurea solstitialis*  
*Carduus nutans*  
*Carduus acanthoides*  
*Onopordum acanthium*  
*Linaria genistifolia* spp. dalmatica  
*Ventenata dubia*  
*Miriophyllum spicatum*

**NEW SECTION**

WAC 16-750-015 STATE NOXIOUS WEED LIST—CLASS C NOXIOUS WEEDS. Class C noxious weeds are as follows:

**COMMON NAME**

babysbreath  
bindweed, field  
carrot, wild  
cocklebur, spiny  
cress, hoary  
dodder  
henbane, black  
houndstongue  
jimsonweed  
kochia  
mullein, common  
nightshade, bitter  
poison-hemlock  
puncturevine  
quackgrass  
rye, cereal  
St. Johnswort, common  
tansy, common  
toadflax, yellow  
thistle, bull  
thistle, Canada  
whitewort, hairy  
wormwood, absinth

**SCIENTIFIC NAME**

*Gypsophila paniculata*  
*Convolvulus arvensis*  
*Daucus carota*  
*Xanthium spinosum*  
*Cardaria draba*  
*Cuscuta* spp.  
*Hyoscyamus niger*  
*Cynoglossum officinale*  
*Datura stramonium*  
*Kochia scoparia*  
*Verbascum thapsus*  
*Solanum dulcamara*  
*Conium maculatum*  
*Tribulus terrestris*  
*Agropyron repens*  
*Secale cereale*  
*Hypericum perforatum*  
*Tanacetum vulgare*  
*Linaria vulgaris*  
*Cirsium vulgare*  
*Cirsium arvense*  
*Cardaria pubescens*  
*Artemisia absinthium*

**NEW SECTION**

WAC 16-750-900 NOXIOUS WEEDS—CIVIL INFRAC-TIONS—SCHEDULE OF MONETARY PENALTIES. Civil infractions under chapter 17.10 RCW shall be assessed a monetary penalty according to the following schedule:

(1) Any owner knowing of the existence of any noxious weeds on the owner's land who fails to control such weeds in accordance with chapter 17.10 RCW and the rules and regulations in force pursuant thereto shall be assessed as follows:

(a) Any class A noxious weed:  
1st offense within five years \$ 750  
2nd and any subsequent offense 1,000

(b) Any class B noxious weed that has been designated for control in the noxious weed control region in which the land lies:

1st offense within five years \$ 500  
2nd offense 750  
3rd and any subsequent offense 1,000

(c) Any class B noxious weed that has not been designated for control in the noxious weed control region in which the land lies; or any class C noxious weed:

1st offense within five years \$ 250  
2nd offense 500  
3rd offense 750  
4th and any subsequent offense 1,000

(2) Any person who enters upon any land in violation of an order in force pursuant to RCW 17.10.210 shall be assessed as follows:

1st offense within five years \$ 500  
2nd offense 750  
3rd and any subsequent offense 1,000

(3) Any person who interferes with the carrying out of the provisions of chapter 17.10 RCW shall be assessed as follows:

1st offense within five years	\$ 500
2nd offense	750
3rd and any subsequent offense	1,000

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-750-010 PROPOSED NOXIOUS WEED LIST.

**WSR 88-03-058**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed January 20, 1988]

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 apiary inspection fees and standards for colony strength, chapter 16-602 WAC;

that the agency will at 1:00 p.m., Tuesday, February 23, 1988, in the Yakima County Courthouse, County Extension Conference Room, 128 North 2nd Street, Yakima, 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 7, 1988.

The authority under which these rules are proposed is chapter 15.60 RCW.

Dated: January 20, 1988

By: Art Losey  
Assistant Director

#### STATEMENT OF PURPOSE

Title: Chapter 16-602 WAC; WAC 16-602-005 through 16-602-030.

Description of Purpose: Apiary inspection fees and standards for honeybee colony strength.

Statutory Authority: Chapter 15.60 RCW.

Summary of Rules: Set geographical areas represented by the Apiary Advisory Board, fees for inspection services, and standards for honeybees.

Reasons for Supporting Proposed Rules: To increase inspection fees to cover department's increased costs for conducting inspections of hives; to clean up the language and to make housekeeping changes for clarity; and to increase standards for colony strength for honeybees used in agricultural crop pollination.

Personnel Responsible for Drafting, Implementing and Enforcing Rules: Robert O. Rebhan, Plant Services Supervisor, 406 General Administration Building, AX-41, Olympia, WA, phone (206) 586-5306.

Persons Proposing Rules: Washington State Department of Agriculture.

Comments: None.

Rules Necessary to Comply with Federal Law: No.

Small Business Economic Impact Statement: None.

#### NEW SECTION

WAC 16-602-005 DEFINITIONS. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Director" means the director of agriculture of the state of Washington;

(2) "Department" means the department of agriculture of the state of Washington;

(3) "Apiary" includes bees, hives, and appliances, wherever they are kept, located, or found;

(4) "Apiarist" means any person who owns bees or is a keeper of bees;

(5) "Appliances" means any implements or devices used in the manipulating of bees or their brood or hives, which may be used in any apiary or any extracting or packing equipment;

(6) "Bees" means honey producing insects of the species *apis mellifera* and include the adults, eggs, larvae, pupae, or other immature stages thereof, together with such materials as are deposited into hives by their adults, except honey and beeswax in rendered form;

(7) "Colony" or "colonies of bees" refers to any natural group of bees having a queen;

(8) "Hive" means any receptacle or container made or prepared for the use of bees, or box or similar container taken possession of by bees;

(9) "Location" means any premises upon which an apiary is located.

#### AMENDATORY SECTION (Amending Order 1551, filed 3/31/78)

WAC 16-602-010 APIARY BOARD, AREA BOUNDARIES. The following are the geographical divisions of the beekeeping industry of Washington state which are represented by members of the apiary board as provided for in RCW 15.60.025:

(1) Area 1. Area 1 shall include the counties of Whatcom, San Juan, Island, Skagit, Snohomish and King.

(2) Area 2. Area 2 shall include the counties of Pierce, Kitsap, Clallam, Jefferson, Grays Harbor, Mason, Thurston, Pacific, Lewis, Wahkiakum, Cowlitz, Clark and Skamania.

(3) Area 3. Area 3 shall include the counties of Kittitas, Yakima, Klickitat and Benton.

(4) Area 4. Area 4 shall include the counties of Okanogan, Chelan and Douglas.

(5) Area 5. Area 5 shall include the counties of Grant, Adams, Franklin, Walla Walla, Columbia, Garfield, Asotin and Whitman.

(6) Area 6. Area 6 shall include the counties of Spokane, Lincoln, Ferry, Stevens and Pend Oreille.

#### AMENDATORY SECTION (Amending Order 1582, filed 9/27/78)

WAC 16-602-020 APIARY INSPECTION FEES. Fees for inspection of honeybees are as follows:

(1) Certification of honeybees for out-of-state movement - ~~(\$12.00)~~ \$18.00 per hour.

(2) Colony strength inspection - ~~(\$12.00)~~ \$18.00 per hour.

(3) All other inspections or services requested by persons or those performed by the department as required by chapter 15.60 RCW - ~~(\$12.00)~~ \$18.00 per hour.

~~(4)~~ (4) For all inspection services performed after 5:00 p.m. or on Saturdays, or Sundays, or state legal holidays, an hourly ~~(charge)~~ rate equivalent of ~~(\$18.00)~~ \$27.00 per hour for actual hours spent in performance of duties ~~(must be made)~~ shall be charged by the department.

~~(5)~~ (5) The following state legal holidays will be observed: New Year's Day, Veterans Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the day following Thanksgiving Day, Christmas Day, ~~(Lincoln's Birthday and Washington's Birthday)~~ President's Day, and Martin Luther King, Jr.'s Birthday. NO SERVICE will be performed on Thanksgiving Day, Christmas Day or New Years Day, beginning at 5:00 p.m. on the previous day.

~~(6)~~ (6) Mileage. ~~(Whenever necessary,)~~ Mileage ~~(with)~~ shall be charged at the rate established by the state office of financial management.

#### AMENDATORY SECTION (Amending Order 1582, filed 9/27/78)

WAC 16-602-030 COLONY STRENGTH. The official minimum standards required for honeybee colony strength certification in the state of Washington shall be ~~(six)~~:

(1) A honeybee colony to be used in agricultural crop pollination shall have a laying queen (be "queen right").

(2) Colonies shall consist of at least six frames, two-thirds covered with bees at a temperature of 65° Fahrenheit for orchard, berry, seed, and legume pollination.

~~((†))~~ (3) Hives shall consist of frames of drawn comb.

(4) The official minimum standards shall remain ~~((at this strength))~~ as stated in subsection (2) of this section continuously ~~((from year to year))~~ unless ~~((, in a given year,))~~ the director by his own motion or upon the advice of the apiary advisory board determines that a new standard may need to be established, in which case ~~((he will))~~ the director shall hold a hearing on this issue in accordance with chapter 34.04 RCW.

(5) The department may conduct any requested inspections to determine colony strength against the official minimum standards in subsection (2) of this section, or against specifications provided in signed contracts between the grower and beekeeper.

**WSR 88-03-059**

**EMERGENCY RULES**

**DEPARTMENT OF AGRICULTURE**

**(Noxious Weed Control Board)**

[Order 21, Resolution No. 21—Filed January 20, 1988]

Be it resolved by the State Noxious Weed Board, acting at Ellensburg, Washington, that it does adopt the annexed rules relating to the state noxious weed list and a schedule of monetary penalties, chapter 16-750 WAC.

We, the State Noxious Weed Board, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is in order to maintain continuity, it is necessary to extend the emergency adoption of rules until the rules are permanently adopted.

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

This rule is promulgated pursuant to RCW 17.10.080, as amended by sections 8 and 28, chapter 438, Laws of 1987, 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 January 20, 1988.

By Art G. Losey  
Chairperson Pro tem

NEW SECTION

**WAC 16-750-001 STATE NOXIOUS WEED LIST—PURPOSE.** In accordance with RCW 17.10.080 a state noxious weed list comprising the names of those plants which the state noxious weed control board finds to be highly destructive, competitive, or difficult to control by cultural or chemical practices is hereby adopted in this chapter.

NEW SECTION

**WAC 16-750-005 STATE NOXIOUS WEED LIST—CLASS A NOXIOUS WEEDS.** Class A noxious weeds are as follows:

(1) All those weeds which have not been reported in the state of Washington as of January 1, 1984, and whose introduction to the state of Washington was not intentional, or whose intentional introduction poses a serious threat to the state for which no control is assured and which is included in one or more of the following publications:

(a) "A Checklist of Names for 3000 Vascular Plants of Economic Importance," by Edward E. Terrell, Steven R. Hill, John H. Wiersema and William E. Rice. USDA-ARS Ag. handbook number 505, revised October 1986;

(b) "A Geographical Atlas of World Weeds," by LeRoy Holm, Juan V. Pancho, James P. Herberger and Donald L. Plucknett. John Wiley and Sons, New York, 1979;

(c) "The World's Worst Weeds, Distribution and Biology," by LeRoy G. Holm, Donald L. Plucknett, Juan V. Pancho and James P. Herberger. University Press of Hawaii, Honolulu, 1977;

(d) "Economically Important Foreign Weeds—Potential Problems in the United States," by Clyde F. Reed, USDA-ARS Ag. handbook number 498, 1977;

(e) The federal noxious weed list, 7.360.200 CFR;

(f) The state noxious weed list of any state; and

(2)

COMMON NAME

SCIENTIFIC NAME

blueweed, Texas	<i>Helianthus ciliaris</i>
buffalobur	<i>Solanum rostratum</i>
crupina, common	<i>Crupina vulgaris</i>
garden rocket	<i>Eruca vesicaria</i> spp. sativa
hedgearsley	<i>Torilis arvensis</i>
johnsongrass	<i>Sorghum halepense</i>
knapweed, bighead	<i>Centaurea macrocephala</i>
knapweed, featherhead	<i>Centaurea trichocephala</i>
knapweed, Vochin	<i>Centaurea nigrescens</i>
mallow, Venice	<i>Hibiscus trionum</i>
nightshade, silverleaf	<i>Solanum elaeagnifolium</i>
rupturewort	<i>Herniaria cineria</i>
snapdragon, dwarf	<i>Chaenorrhinum minus</i>
unicorn-plant	<i>Proboscidea louisianica</i>
velvetleaf	<i>Abutilon theophrasti</i>
woad, dyers	<i>Isatis tinctoria</i>

NEW SECTION

**WAC 16-750-011 STATE NOXIOUS WEED LIST—CLASS B NOXIOUS WEEDS.** Class B noxious weeds are as follows:

COMMON NAME

SCIENTIFIC NAME

apera, interrupted	<i>Apera interrupta</i>
blueweed	<i>Echium vulgare</i>
broom, Scotch	<i>Cytisus scoparius</i>
bryony, white	<i>Bryonia alba</i>
bugloss, common	<i>Anchusa officinalis</i>
camelthorn	<i>Alhagi pseudalhagi</i>
catsear, spotted	<i>Hypochaeris radicata</i>
daisy, oxeye	<i>Chrysanthemum leucanthemum</i>
dogtailgrass, hedgehog	<i>Cynosurus echinatus</i>
foxtail, slender	<i>Alopecurus myosuroides</i>
goatgrass, jointed	<i>Aegilops cylindrica</i>
gorse	<i>Ulex europaeus</i>

COMMON NAME	SCIENTIFIC NAME
hawkweed, orange	<i>Hieracium aurantiacum</i>
hawkweed, yellow	<i>Hieracium pratense</i>
indigobush	<i>Amorpha fruticosa</i>
knawweed, black	<i>Centaurea nigra</i>
knawweed, brown	<i>Centaurea jacea</i>
knawweed, diffuse	<i>Centaurea diffusa</i>
knawweed, meadow	<i>Centaurea jacea X nigra</i>
knawweed, Russian	<i>Centaurea repens</i>
knawweed, spotted	<i>Centaurea maculosa</i>
lepyrodiclis	<i>Lepyroclis holosteoides</i>
lythrum, purple	<i>Lythrum salicaria</i>
medusahead	<i>Taeniatherum caput-medusae</i>
nutsedge, yellow	<i>Cyperus esculentus</i>
oxtongue, hawkweed	<i>Picris hieracioides</i>
peaweed, Austrian	<i>Sphaerophysa salsula</i>
pepperweed, perennial	<i>Lepidium latifolium</i>
ragwort, tansy	<i>Senecio jacobaea</i>
sage, Mediterranean	<i>Salvia aethiopsis</i>
sandbur, longspine	<i>Cenchrus longispinus</i>
skeletonweed, rush	<i>Chondrilla juncea</i>
sowthistle, perennial	<i>Sonchus arvensis</i>
spurge, leafy	<i>Euphorbia esula</i>
starthistle, yellow	<i>Centaurea solstitialis</i>
thistle, musk	<i>Carduus nutans</i>
thistle, plumeless	<i>Carduus acanthoides</i>
thistle, Scotch	<i>Onopordum acanthium</i>
toadflax, Dalmatian	<i>Linaria genistifolia</i> spp. <i>dalmatica</i>
ventenata	<i>Ventenata dubia</i>
watermilfoil, Eurasian	<i>Myriophyllum spicatum</i>

**NEW SECTION**

**WAC 16-750-015 STATE NOXIOUS WEED LIST—CLASS C NOXIOUS WEEDS.** Class C noxious weeds are as follows:

COMMON NAME	SCIENTIFIC NAME
babysbreath	<i>Gypsophila paniculata</i>
bindweed, field	<i>Convolvulus arvensis</i>
carrot, wild	<i>Daucus carota</i>
cocklebur, spiny	<i>Xanthium spinosum</i>
cress, hoary	<i>Cardaria draba</i>
dodder	<i>Cuscuta</i> spp.
henbane, black	<i>Hyoscyamus niger</i>
houndstongue	<i>Cynoglossum officinale</i>
jimsonweed	<i>Datura stramonium</i>
kochia	<i>Kochia scoparia</i>
mullein, common	<i>Verbascum thapsus</i>
nightshade, bitter	<i>Solanum dulcamara</i>
poison-hemlock	<i>Conium maculatum</i>
puncturevine	<i>Tribulus terrestris</i>
quackgrass	<i>Agropyron repens</i>
rye, cereal	<i>Secale cereale</i>
St. Johnswort, common	<i>Hypericum perforatum</i>
tansy, common	<i>Tanacetum vulgare</i>
toadflax, yellow	<i>Linaria vulgaris</i>
thistle, bull	<i>Cirsium vulgare</i>
thistle, Canada	<i>Cirsium arvense</i>
whiteweed, hairy	<i>Cardaria pubescens</i>
wormwood, absinth	<i>Artemisia absinthium</i>

**NEW SECTION**

**WAC 16-750-900 NOXIOUS WEEDS—CIVIL INFRACTIONS—SCHEDULE OF MONETARY PENALTIES.** Civil infractions under chapter 17.10 RCW shall be assessed a monetary penalty according to the following schedule:

(1) Any owner knowing of the existence of any noxious weeds on the owner's land who fails to control such weeds in accordance with chapter 17.10 RCW and the

rules and regulations in force pursuant thereto shall be assessed as follows:

(a) Any class A noxious weed:  
 1st offense within five years \$ 750  
 2nd and any subsequent offense 1,000

(b) Any class B noxious weed that has been designated for control in the noxious weed control region in which the land lies:

1st offense within five years \$ 500  
 2nd offense 750  
 3rd and any subsequent offense 1,000

(c) Any class B noxious weed that has not been designated for control in the noxious weed control region in which the land lies; or any class C noxious weed:

1st offense within five years \$ 250  
 2nd offense 500  
 3rd offense 750  
 4th and any subsequent offense 1,000

(2) Any person who enters upon any land in violation of an order in force pursuant to RCW 17.10.210 shall be assessed as follows:

1st offense within five years \$ 500  
 2nd offense 750  
 3rd and any subsequent offense 1,000

(3) Any person who interferes with the carrying out of the provisions of chapter 17.10 RCW shall be assessed as follows:

1st offense within five years \$ 500  
 2nd offense 750  
 3rd and any subsequent offense 1,000

**REPEALER**

The following section of the Washington Administrative Code is repealed:

**WAC 16-750-010 PROPOSED NOXIOUS WEED LIST.**

**WSR 88-03-060**

**NOTICE OF PUBLIC MEETINGS  
 UNIVERSITY OF WASHINGTON**

[Memorandum—January 13, 1988]

Below is the revised meeting schedule for regular meetings to be held by the University of Washington's Department of Bioengineering.

February 2, 1988	8:30 a.m.	Harris 322
March 1, 1988	8:30 a.m.	Harris 322
April 5, 1988	8:30 a.m.	Harris 322
May 3, 1988	8:30 a.m.	Harris 322
June 7, 1988	8:30 a.m.	Harris 322
September 6, 1988	8:30 a.m.	Harris 322
October 4, 1988	8:30 a.m.	Harris 322
November 1, 1988	8:30 a.m.	Harris 322
December 6, 1988	8:30 a.m.	Harris 322

(No July and August meetings due to summer vacation)

**WSR 88-03-061****NOTICE OF PUBLIC MEETINGS  
TACOMA COMMUNITY COLLEGE**

[Memorandum—January 19, 1988]

The board of trustees has changed the date of their regular February board meeting from February 11 to February 12, 1988.

**WSR 88-03-062****PROPOSED RULES  
DEPARTMENT OF LICENSING  
(Cemetery Board)**

[Filed January 20, 1988]

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

New WAC 98-11-005 Definition—Section.  
Amd WAC 98-40-050 Cremation of human remains;

that the agency will at 9:30 a.m., Monday, February 29, 1988, in the Spokane Community College, The Lair, Upstairs Conference Room, N-1810 Greene Street, Spokane, WA 99207, 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 68.05.105(1).

The specific statute these rules are intended to implement is RCW 68.40.025 and 68.50.185.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 26, 1988.

Dated: January 20, 1988

By: Robert Van Schoorl  
Assistant Director**STATEMENT OF PURPOSE**

Name of Agency: Washington State Department of Licensing Cemetery Board.

Purpose/Summary of Rules: WAC 98-40-050(5) allows a crematory authority to cremate more than one human remain simultaneously if the process employed ensures that the remains will be kept separate; and 98-11-005 defines the term "section" in the context of RCW 68.40.025.

Statutory Authority: RCW 68.05.105(1).

Reasons Proposed: To allow the industry a more efficient method of cremation while fully protecting the interests and welfare of the public; and to clarify the term "section" as it relates to RCW 68.40.025.

Responsible Departmental Personnel: In addition to the assistant director of the Department of Licensing,

the following individual has knowledge of and responsibility for drafting, implementing, enforcing and repealing these rules: Paul Elvig, Executive Secretary, Washington State Cemetery Board, Department of Licensing, P.O. Box 9012, Olympia, Washington 98504-8001, phone (206) 586-4905 or (206) 676-2128.

Proponents: Department of Licensing Cemetery Board.

Federal Law or Federal or State Court Requirement: Not necessitated as the result of federal or state court requirements.

Small Business Economic Impact Statement: Not required for this statement.

**AMENDATORY SECTION** (Amending Order 108, filed 9/6/85)

WAC 98-40-050 CREMATION OF HUMAN REMAINS. (1) Cremation will not take place until the necessary permits and consents are issued by the health department and/or coroner or prosecuting attorney. (See RCW 68.08.108 and 70.58.230)

(2) Immediately prior to being placed within the cremation chamber, the identification of the human remains shall be verified by the crematory authority and identification of the human remains being cremated shall be placed near the cremation chamber control panel where it shall remain in place until the cremation process is complete.

(3) The unauthorized simultaneous cremation of more than one human remains within the same cremation chamber is specifically forbidden. It may be done only when authorized as provided in WAC 98-40-050 (4) and (5).

(4) A crematory authority may simultaneously cremate more than one human remains within the same cremation chamber only upon having received written authorization to do so from the authorizing agent of each human remains to be cremated. A written authorization shall exempt the crematory authority from all liability for comingling of the products of the cremation process.

(5) Simultaneous cremation of more than one human remains within the same cremation chamber may be made without the authorizations required in WAC 98-40-050 (3) and (4) if equipment, techniques, or other devices are employed that keep the human remains separate and distinct before and during, and recoverable cremated remains separated and distinct after the cremation process.

**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.

**NEW SECTION**

WAC 98-11-005 DEFINITION—SECTION. For the purposes of RCW 68.40.025, "section" shall mean cemetery land, either dedicated or undedicated, that was not available for sale prior to the effective date of RCW 68.40.025. A section shall have at least one of the following characteristics: (1) Area that is distinguishable as a unit of unsold graves not comingled with units of graves in which sales have occurred prior to the effective date of RCW 68.40.025.

(2) Areas owned by cremeteries for future development.

(3) Areas acquired by cremeteries for development after the effective date of RCW 68.40.025.

(4) Areas consisting of groups of graves or lots identified by the cemetery with title or number as to create the appearance of a distinguishable group.

(5) Mausoleums, columbariums, crypts or niches constructed after the effective date of RCW 68.40.025.

**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.

**WSR 88-03-063**  
**PROPOSED RULES**  
**ATTORNEY GENERAL'S OFFICE**  
 [Filed January 20, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Attorney General intends to adopt, amend, or repeal rules concerning chapter 19.118 RCW.

New	WAC 44-10-215	Receipt of resale information.
New	WAC 44-10-220	Resale of motor vehicle determined or adjudicated as having a serious safety defect.
New	WAC 44-10-230	Resale of motor vehicle determined or adjudicated as having a nonconformity.
New	WAC 44-10-240	Warranty period of certificate of correction and warranty;

that the agency will at 10:00 a.m., Friday, February 26, 1988, in the 13th Floor Library, Dexter Horton Building, Seattle, Washington 98104-1749, 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 19.118.061 and 19.118.080 (2) and (7).

The specific statute these rules are intended to implement is RCW 19.118.061.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 23, 1988.

Dated: January 20, 1988

By: Tad H. Shimazu  
 Assistant Attorney General  
 Lemon Law Administrator  
 Consumer and Business  
 Fair Practices Division

#### STATEMENT OF PURPOSE

Name of Agency: Washington State Attorney General's Office.

Purpose/Summary of Rules: WAC 44-10-215 provides for the receipt of the Lemon Law resale notice, consumer disclosure form and out-of-state disposition postcard by the manufacturer; 44-10-220 sets up the procedure for the resale of a motor vehicle determined or adjudicated as having a serious safety defect; 44-10-230 sets up the procedures for the resale of a motor vehicle determined or adjudicated as having a nonconformity; and 44-10-240 provides a warranty period of one year or twelve thousand miles from the date of resale of a vehicle with a corrected serious safety defect or a corrected nonconformity.

Statutory Authority: RCW 19.118.061, 19.118.080 and 19.118.090.

Reasons Proposed: To implement chapter 19.118 RCW and to provide procedures for the resale of motor vehicles determined or adjudicated as having a serious safety defect or a nonconformity pursuant to RCW 19.118.080.

Responsible Departmental Personnel: In addition to the attorney general, the following individuals have knowledge of and responsibility for drafting, implementing, enforcing and repealing these rules: Tad H.

Shimazu, Assistant Attorney General, Consumer and Business Fair Practices Division, 1300 Dexter Horton Building, Seattle, Washington 98104-1749, phone (206) 464-7030 or 576-7030 scan.

Proponents: State of Washington Attorney General's Office.

Federal Law or Federal or State Court Requirements: Not necessitated as the result of federal or state court requirements.

Small Business Economic Impact Statement: Not required for this statement.

#### NEW SECTION

WAC 44-10-215 RECEIPT OF RESALE INFORMATION  
 The manufacturer, shall receive, with the Notice of Acceptance, a "Lemon Law Resale Notice", Consumer Disclosure form and an Out-of-State Disposition postcard.

#### NEW SECTION

WAC 44-10-220 RESALE OF MOTOR VEHICLE DETERMINED OR ADJUDICATED AS HAVING A SERIOUS SAFETY DEFECT. (1) Resale of a motor vehicle in the State of Washington, pursuant to RCW 19.118.061(1), must conform to the following procedures:

(a) A manufacturer, to whom a motor vehicle with a serious safety defect is returned for replacement or repurchase, shall affix a "Lemon Law Resale Notice" to the lower center of the front windshield of the vehicle in a manner so as to be readily visible from the exterior of such vehicle. The "Lemon Law Resale Notice" will set forth that the vehicle was determined to have a serious safety defect and the specific serious safety defect(s) shall be enumerated. The "Lemon Law Resale Notice" shall be supplied by the Attorney General's Office. The "Lemon Law Resale Notice" may only be removed by the manufacturer or its agent upon receipt of a signed copy of the Consumer Disclosure form.

(b) The Consumer Disclosure form sets forth the specific serious safety defect found in the motor vehicle and outlines the procedures that can be taken pursuant to resale of the vehicle. The purchaser of a motor vehicle must sign the Consumer Disclosure form. The purchaser shall receive a copy of the signed disclosure form. The purchaser shall also receive a copy of the manufacturer's Certificate of Correction and Warranty.

(c) The manufacturer must send a copy of the signed Certificate of Correction and Warranty to the appropriate divisions of the Washington State Department of Licensing and State Attorney General. The Attorney General's Office must also receive a copy of the signed Consumer Disclosure form.

(2) If a motor vehicle is not to be resold in Washington, the manufacturer shall fill out an Out-of-State Disposition postcard indicating the Vehicle Identification Number and the destination State and any other information as may be required by the Attorney General's Office.

#### NEW SECTION

WAC 44-10-230 RESALE OF MOTOR VEHICLE DETERMINED OR ADJUDICATED AS HAVING A NONCONFORMITY. (1) Resale of a motor vehicle in the State of Washington, pursuant to RCW 19.118.061(3) and 19.118.061(4), must conform to the following procedures:

(a) A manufacturer, to whom a motor vehicle with a nonconformity is returned for replacement or repurchase, shall affix a "Lemon Law Resale Notice" to the lower center of the front windshield of the vehicle in a manner so as to be readily visible from the exterior of such vehicle. The "Lemon Law Resale Notice" will set forth that the vehicle was determined to have a nonconformity and the specific nonconformity(ies) shall be enumerated. The "Lemon Law Resale Notice" shall be supplied by the Attorney General's Office. The "Lemon Law Resale Notice" may only be removed by the manufacturer or its agent upon receipt of a signed copy of the Consumer Disclosure form.

(b) The Consumer Disclosure form sets forth the specific nonconformity found in the motor vehicle and outlines the procedures that can be taken pursuant to resale of the vehicle. The purchaser of a motor vehicle must sign the Consumer Disclosure form. The purchaser shall receive a copy of the signed disclosure form. The purchaser shall also

receive a copy of the manufacturer's Certificate of Correction and Warranty if the manufacturer has corrected the nonconformity.

(c) The manufacturer, if it chooses to correct the nonconformity, must send a copy of the signed Certificate of Correction and Warranty to the appropriate divisions of the Washington State Department of Licensing and State Attorney General. The Attorney General's Office must also receive a copy of the signed Consumer Disclosure form.

(2) If a motor vehicle is not to be resold in Washington, the manufacturer shall fill out an Out-of-State Disposition postcard indicating the Vehicle Identification Number and the destination State and any other information as may be required by the Attorney General's Office.

**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.

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

NEW SECTION

WAC 44-10-240 **WARRANTY PERIOD FOR CERTIFICATE OF CORRECTION AND WARRANTY.** Any warranty issued pursuant to the provisions of RCW 19.118.061 shall be for the duration of one year from the date of resale or an additional twelve thousand miles from the date of resale, whichever occurs first.

**WSR 88-03-064**  
**EMERGENCY RULES**  
**ATTORNEY GENERAL'S OFFICE**  
 [Order 88-1—Filed January 20, 1988]

I, Kenneth O. Eikenberry, Attorney General, do promulgate and adopt at Olympia, Washington, the annexed rules relating to chapter 19.118 RCW.

- New WAC 44-10-215 Receipt of resale information.
- New WAC 44-10-220 Resale of motor vehicle determined or adjudicated as having a serious safety defect.
- New WAC 44-10-230 Resale of motor vehicle determined or adjudicated as having a nonconformity.
- New WAC 44-10-240 Warranty period of certificate of correction and warranty.

I, Kenneth O. Eikenberry, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is chapter 19.118 RCW, commonly known as the Lemon Law, requires specific procedures to be followed for resale of vehicles repurchased or returned to the manufacturers under the Lemon Law. These rules are necessary to ensure uniform compliance with the statutory requirements. Presently, there are no rules that address the resale issue.

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

This rule is promulgated pursuant to RCW 19.118-.061 and 19.119.080 [19.118.080] which directs that the Attorney General's Office has authority to implement the provisions of chapter 19.118 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 January 20, 1988.

By Kenneth O. Eikenberry  
 Attorney General

NEW SECTION

WAC 44-10-215 **RECEIPT OF RESALE INFORMATION** The manufacturer, shall receive, with the Notice of Acceptance, a "Lemon Law Resale Notice", Consumer Disclosure form and an Out-of-State Disposition postcard.

NEW SECTION

WAC 44-10-220 **RESALE OF MOTOR VEHICLE DETERMINED OR ADJUDICATED AS HAVING A SERIOUS SAFETY DEFECT.** (1) Resale of a motor vehicle in the State of Washington, pursuant to RCW 19.118.061(1), must conform to the following procedures:

(a) A manufacturer, to whom a motor vehicle with a serious safety defect is returned for replacement or repurchase, shall affix a "Lemon Law Resale Notice" to the lower center of the front windshield of the vehicle in a manner so as to be readily visible from the exterior of such vehicle. The "Lemon Law Resale Notice" will set forth that the vehicle was determined to have a serious safety defect and the specific serious safety defect(s) shall be enumerated. The "Lemon Law Resale Notice" shall be supplied by the Attorney General's Office. The "Lemon Law Resale Notice" may only be removed by the manufacturer or its agent upon receipt of a signed copy of the Consumer Disclosure form.

(b) The Consumer Disclosure form sets forth the specific serious safety defect found in the motor vehicle and outlines the procedures that can be taken pursuant to resale of the vehicle. The purchaser of a motor vehicle must sign the Consumer Disclosure form. The purchaser shall receive a copy of the signed disclosure form. The purchaser shall also receive a copy of the manufacturer's Certificate of Correction and Warranty.

(c) The manufacturer must send a copy of the signed Certificate of Correction and Warranty to the appropriate divisions of the Washington State Department of Licensing and State Attorney General. The Attorney General's Office must also receive a copy of the signed Consumer Disclosure form.

(2) If a motor vehicle is not to be resold in Washington, the manufacturer shall fill out an Out-of-State Disposition postcard indicating the Vehicle Identification Number and the destination State and any other information as may be required by the Attorney General's Office.

NEW SECTION

WAC 44-10-230 **RESALE OF MOTOR VEHICLE DETERMINED OR ADJUDICATED AS HAVING A NONCONFORMITY.** (1) Resale of a motor

vehicle in the State of Washington, pursuant to RCW 19.118.061(3) and 19.118.061(4), must conform to the following procedures:

(a) A manufacturer, to whom a motor vehicle with a nonconformity is returned for replacement or repurchase, shall affix a "Lemon Law Resale Notice" to the lower center of the front windshield of the vehicle in a manner so as to be readily visible from the exterior of such vehicle. The "Lemon Law Resale Notice" will set forth that the vehicle was determined to have a nonconformity and the specific nonconformity(ies) shall be enumerated. The "Lemon Law Resale Notice" shall be supplied by the Attorney General's Office. The "Lemon Law Resale Notice" may only be removed by the manufacturer or its agent upon receipt of a signed copy of the Consumer Disclosure form.

(b) The Consumer Disclosure form sets forth the specific nonconformity found in the motor vehicle and outlines the procedures that can be taken pursuant to resale of the vehicle. The purchaser of a motor vehicle must sign the Consumer Disclosure form. The purchaser shall receive a copy of the signed disclosure form. The purchaser shall also receive a copy of the manufacturer's Certificate of Correction and Warranty if the manufacturer has corrected the nonconformity.

(c) The manufacturer, if it chooses to correct the nonconformity, must send a copy of the signed Certificate of Correction and Warranty to the appropriate divisions of the Washington State Department of Licensing and State Attorney General. The Attorney General's Office must also receive a copy of the signed Consumer Disclosure form.

(2) If a motor vehicle is not to be resold in Washington, the manufacturer shall fill out an Out-of-State Disposition postcard indicating the Vehicle Identification Number and the destination State and any other information as may be required by the Attorney General's Office.

**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.

### NEW SECTION

**WAC 44-10-240 WARRANTY PERIOD FOR CERTIFICATE OF CORRECTION AND WARRANTY.** Any warranty issued pursuant to the provisions of RCW 19.118.061 shall be for the duration of one year from the date of resale or an additional twelve thousand miles from the date of resale, whichever occurs first.

**WSR 88-03-065**  
**REVIEW OF RULES**  
**HOSPITAL COMMISSION**  
 [Filed January 20, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.230, that the Washington State Hospital Commission intends to review the Joint Administrative

Rules Review Committee's findings concerning the following rules:

WAC 261-40-150 Methodology and criteria for approval, modification, or disapproval of annual budget submittal and rates, rate schedules, other charges, and changes therein, specifically subsection (5)(e), WSR 87-16-076.

The commission will at 10:00 a.m., Thursday, March 10, 1988, in the Banyan Room at the Southcenter Doubletree Inn, Seattle, Washington, conduct a public hearing on the findings of the Joint Administrative Rules Review Committee (JARRC). The JARRC's findings and the reasons for the findings were stated to the commission as follows:

"At its December 15, 1987, meeting the Joint Administrative Rules Review Committee, by a majority vote upon formal review, determined that the Hospital Commission's rule exempting hospitals from the restrictive language of RCW 70.39.140, when "selectively contracting" with certain governmental entities, fails to meet the legislative intent of that statute. The Committee also directed that this matter be referred to the House and Senate Committees on Human Services, Health Care and Corrections, and Ways and Means.

"RCW 70.39.140(1) clearly allows hospitals to negotiate rates that are less than Commission approved rates, provided the rate is cost justified and does not result in any cost shifting. This binds all hospitals in negotiating rates with any payer or purchaser. The State is clearly "any" payer or purchaser and using the euphemism "selective contracting" does not exempt hospitals from the negotiated rate limitations.

"RCW 70.39.140(5) exempts DSHS from paying Commission-approved rates; however, it does not exempt hospitals from the limitations placed on them when they negotiate rates with any payer or purchaser."

Dated January 20, 1988

Maurice A. Click  
 Executive Director

**WSR 88-03-066**  
**PROPOSED RULES**  
**BOARD OF PHARMACY**  
 [Filed January 20, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pharmacy intends to adopt, amend, or repeal rules concerning the fees charged by the Board of Pharmacy;

that the agency will at 10:00 a.m., Wednesday, February 24, 1988, in the West Coast Hotel, 18220 Pacific Highway South, 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 18.64.005.

(10) It shall be unlawful to take, fish for or possess or to injure, kill or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere in any manner with the proper operation of such fish protective devices.

(11) It shall be unlawful to club, gaff, shoot, snag, snare, dip net, harass, spear, stone or otherwise molest, injure, kill or destroy any food fish or shellfish or parts thereof, or for any person to attempt to commit such acts, or to have any fish, shellfish or parts thereof so taken in possession, except as provided for in this subsection:

(a) It shall be lawful to use a dip net, gaff or club in the landing of food fish taken by personal-use angling.

(b) It shall be lawful to use a dip net, gaff, or club in the landing of food fish or shellfish taken for commercial purposes, except that it is unlawful to use a fish pew, pitchfork, or any other instrument that will penetrate the body of the food fish or shellfish while sorting commercial catches during the act of discarding those fish that are not going to be retained.

(c) It shall be lawful to use a spear in underwater spear fishing as provided for in WAC 220-56-160.

(d) It shall be lawful to use a spear to take carp as provided for in WAC 220-56-280.

(e) It shall be lawful to snag herring, smelt, anchovies, pilchard, sand lance, and squid when using baitfish jigger gear or squid jigs.

(12) It shall be unlawful to take or possess for any purpose any food fish or shellfish smaller than the lawful minimum size limits. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish and it shall be unlawful to allow undersized salmon entangled in commercial nets to pass through a power block or onto a power reel or drum.

(13) It shall be unlawful to possess aboard any vessel engaged in commercial fishing or having commercially caught fish aboard, any food fish or shellfish in such condition that its species, length, weight or sex cannot be determined if a species, length, weight, or sex limit is prescribed for said species.

(14) It shall be unlawful in any area to use, operate or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department of fisheries.

(15) It shall be unlawful for any permit holder to fail to comply with all provisions of any special permit or letter of approval issued to him under the authority of the director of fisheries, or to perform any act not specifically authorized in said document or in the regulations of the director of fisheries.

(16) It shall be unlawful to use, place or cause to be placed in the waters or on the beaches or tidelands of the state any substance or chemical used for control of predators or pests affecting food fish or shellfish or other aquatic marine organisms, without first having obtained a special permit to do so from the director of fisheries.

(17) It shall be unlawful to test commercial fishing gear except as follows:

(a) Bellingham Bay - inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances in waters 10 fathoms and deeper.

(b) Boundary Bay - north of a line from Birch Point to Point Roberts and south of the international boundary in waters 10 fathoms and deeper during times not under IPSFC control.

(c) San Juan Channel - within a 1 mile radius of Point Caution during times not under IPSFC control.

(d) Port Angeles - inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner - within a 2 mile radius of the entrance to Everett breakwater in waters 10 fathoms and deeper.

(f) Central Puget Sound - between lines from Meadow Point to Point Monroe and Skiff Point to West Point in waters 50 fathoms and deeper.

(g) East Pass - between lines from Point Robinson true east to the mainland and from Dash Point to Point Piner in waters 50 fathoms and deeper.

(h) Port Townsend - westerly of a line from the Coast Guard station in Port Townsend to Walan Point to Kala Point in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes exclusive of setting and retrieving time.

(j) All testing is to be accomplished between 8:00 a.m. and 4:00 p.m.

(k) Codends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks shall be used with jig or troll gear.

(l) Any and all incidentally caught fish and shellfish must be returned to the waters immediately, and no fish or shellfish are to be retained aboard the vessel at any time during a gear test operation.

(m) It shall be unlawful for any person conducting such gear testing operations to fail to notify the fisheries patrol office in Olympia prior to testing.

(18) It is unlawful for any person or corporation licensed by the department of fisheries to fail to comply with the directions of authorized department personnel related to the collection of sampling data or material from food fish or shellfish. It is also unlawful for any such person or corporation to fail to relinquish to the department, upon request, any part of a salmon or other food fish containing coded-wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

#### AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

WAC 220-56-105 RIVER MOUTH DEFINITIONS. When pertaining to food fish angling, unless otherwise defined, any reference to the mouths of rivers or streams shall be construed to include those waters of any river or stream including sloughs and tributaries upstream and inside of a line projected between the outermost uplands at the mouth. The term "outermost upland" shall be construed to mean those lands not covered by water during an ordinary high tide. The following river mouths are hereby otherwise defined:

Abernathy Creek - Highway 4 Bridge.

Bear River - Highway 101 Bridge.

Bone River - Highway 101 Bridge.

Chehalis River - U.P. Railway Bridge in Aberdeen.

Chinook River - The tide gates at the Highway 101 Bridge.

Cowlitz River - A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.

Dakota Creek - A line from the outermost headland of the south bank to a house at 1285 Runge Avenue, Blaine, Washington, approximately one-quarter mile downstream from the Blaine Road Bridge.

Duwamish River - First Avenue South Bridge.

Elk River - Highway 105 Bridge.

Entiat River - Highway 97 Bridge.

Germany Creek - Highway 4 Bridge.

Hoquiam River - Highway 101 Bridge.

Humtulpis River - Mouth of Jessie Slough.

Johns River - Highway 105 Bridge.

Lake Washington Ship Canal - Line 400 feet below the fish ladder at the Chittenden Locks.

Lewis River - A straight line running from a marker on Austin Point south across the Lewis River to a marker on the opposite shore.

Methow River - Highway 97 Bridge.

Mill Creek - Highway 4 Bridge.

Naselle River - Highway 101 Bridge.

North Nemah River - Line from markers approximately one-half mile below the Highway 101 Bridge.

Niawiakum River - Highway 101 Bridge.

North River - Highway 105 Bridge.

Palix River - Highway 101 Bridge.

Puyallup River - 11th Street Bridge.

Samish River - The Samish Island Bridge (Bayview-Edison Road).

Sammamish River - Kenmore Highway Bridge.

Skagit River - A line projected from the terminus of the jetty with McGlenn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough.

Skamokawa Creek - Highway 4 Bridge.

Snohomish River - Burlington Northern Railway Bridges crossing main river and sloughs.

South Nemah River - Lynn Point 117 degrees true to the opposite shore.

take of juvenile clams and prevent overharvest; WAC 220-56-380 (a) eliminates year round oyster harvest at Dosewallips State Park. Oyster levels have been significantly reduced and extra harvest is not warranted, (b) closes Scenic Beach State Park through April 14, 1989. No harvestable surplus of oysters is present; WAC 220-57-130 and 220-57-135 allows adult coho harvest. Harvestable surplus available; WAC 220-57-160 (a) identifies Pasco-Kennewick Bridge as Highway 395 Bridge. Name change has occurred, (b) eliminates Ringold spring chinook fishery. No salmon will return to Ringold, and any fishery would impact nonharvestable upriver stocks; WAC 220-57-200 allows adult coho harvest. Harvestable surplus available; WAC 220-57-220 extends seasonal closed area. Provides chinook protection; WAC 220-57-230 conforms harvest with Johns River. Provides management consistency; WAC 220-57-240 establishes closure around hatchery outfall. Provides protection to returning spawning coho; WAC 220-57-270 allows adult coho harvest. Harvestable surplus available; WAC 220-57-285 provides notification of possible chinook fishery. There may be a harvestable surplus of chinook; WAC 220-57-290 redefines fishery at mouth of river. Prevents harvest of Wenatchee River origin fish while fishing in the Icicle River; WAC 220-57-327 allows adult salmon harvest. Harvestable surplus of chinook; WAC 220-57-335 delays opening above Highway 4. Prevents snagging during low water conditions; WAC 220-57-385 allows adult salmon harvest. Harvestable surplus of coho and chinook; WAC 220-57-445 expands area and allows limited adult harvest. Harvestable numbers of three year old adult salmon are available; WAC 220-57-460 allows adult salmon harvest. Harvestable surplus of coho and chinook; WAC 220-57-495 eliminates snag fishery. No coho jacks are available; WAC 220-57-505 and 220-57-515 opens fall season one month earlier. Fall chinook available; WAC 220-57A-175 (a) eliminates incidental sockeye retention. Fishermen have been targeting on sockeye, and no harvestable surplus is available, (b) requires barbless single hooks. This will prevent snagging; and WAC 220-57A-180 (a) increases closed area at east end of Chittenden Locks. The fishery at the locks has increased to the level that vessel traffic is being interfered with. This will provide for an orderly fishery, (b) closes sockeye fishery. No harvestable surplus of sockeye is available.

Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, Washington, 586-2429; Implementation: Judith Freeman, Gene DiDonato, and Mark G. Pedersen, 115 General Administration Building, Olympia, Washington, 753-6600; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, Washington, 753-6585.

These rules are proposed by the Washington Department of Fisheries.

Comments: None.

These proposals are not the result of federal law or court order.

Small Business Economic Impact Statement: These rules regard personal use sport fishing. No impact on small businesses is anticipated. In any event, no effect on

10% of businesses in any one three-digit industrial classification nor 20% of all businesses is expected.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

WAC 220-20-010 GENERAL PROVISIONS—LAWFUL AND UNLAWFUL ACTS—SALMON, OTHER FOOD FISH AND SHELLFISH. (1) It shall be unlawful to take, fish for, possess or transport for any purpose food fish, shellfish or parts thereof, in or from any of the waters or land over which the state of Washington has jurisdiction, or from the waters of the Pacific Ocean, except at the times, places and in the manners and for the species, quantities, sizes or sexes provided for in the regulations of the department of fisheries.

(2) It shall be unlawful for any person to have in possession or under control or custody any food fish or shellfish within the land or water boundaries of the state of Washington, except in those areas which are open to commercial fishing or wherein the possession, control or custody of salmon or other food fish or shellfish for commercial purposes is made lawful under a statute of the state of Washington or the rules and regulations of the director of fisheries, unless otherwise provided.

(3) It shall be lawful to fish for, possess, process and otherwise deal in food fish and fish offal or scrap for any purpose, provided; that it shall be unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:

Pacific halibut	(Hippoglossus stenolepis)
Pacific herring (except as prescribed in WAC 220-49-020)	(Clupea harengus pallasii)
Salmon	
Chinook	(Oncorhynchus tshawytscha)
Coho	(Oncorhynchus kisutch)
Chum	(Oncorhynchus keta)
Pink	(Oncorhynchus gorbuscha)
Sockeye	(Oncorhynchus nerka)
Masu	(Oncorhynchus masu)

(4) It shall be unlawful for any person to fish for food fish or shellfish while in possession in the field of food fish or shellfish that are in violation of the harvest regulations for the area being fished. This regulation does not apply to vessels in transit.

(5) It shall be unlawful for the owner or operator of any commercial food fish or shellfish gear to leave such gear unattended in waters of the state or offshore waters unless said gear is marked with a buoy to which shall be affixed in a visible and legible manner the department of fisheries approved and registered buoy brand provided that:

(a) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(b) When two or more shellfish pots are attached to a common ground line the number of pots so attached must be clearly labeled on the required buoy.

(c) It shall be unlawful at any time to leave a gill net unattended in the commercial salmon fishery.

(6) It shall be unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, provided; that this provision shall not apply to reef nets or brush weirs or to gear being tested under supervision of the department of fisheries, provided further that it shall be unlawful to take, fish for or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47° 20' from August 15 through November 30 except as provided in chapter 220-47 WAC.

(7) It shall be unlawful for the owner or operator of any fishing gear to refuse to submit such gear to inspection in any manner specified by authorized representatives of the department of fisheries.

(8) It shall be unlawful for any person taking or possessing food fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington or the Pacific Ocean for any purpose to fail to submit such food fish or shellfish for inspection by authorized representatives of the department of fisheries.

(9) It shall be unlawful for any person licensed under the fisheries code of Washington to fail to make any report or return required of him by the department of fisheries relative to the taking, selling, possessing, transporting, processing, freezing and storing of food fish or shellfish whether taken within the jurisdiction of the state of Washington or beyond or on Indian reservations or usual and accustomed Indian fishing grounds.

Valley College, 16th Avenue and Nob Hill Boulevard, Yakima, Washington, for information call (509) 575-2350; and in the Foster Auditorium, Clark College, 1800 East McLoughlin Boulevard, Vancouver, WA, for information call (206) 694-6521; and in Room 120, Baker Hall, Everett Community College, 801 Wetmore Avenue, Everett, WA, for information call (206) 259-7151.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 4, 1988.

The authority under which these rules are proposed is RCW 75.08.080.

The specific statute these rules are intended to implement is RCW 75.08.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 27, 1988.

Dated: January 20, 1988

By: Judith Merchant  
for Joseph R. Blum  
Director

#### STATEMENT OF PURPOSE

Title: WAC 220-20-010 General provisions—Lawful and unlawful acts—Salmon, other food fish and shellfish; 220-56-105 River mouth definitions; 220-56-115 Angling—Lawful and unlawful acts; 220-56-180 Bag limit codes; 220-56-185 Marine area codes; 220-56-195 Closed areas—Saltwater salmon angling; 220-56-199 Closed areas—Chinook salmon angling; 220-56-205 Hook regulations—Freshwater salmon angling; 220-56-235 Possession limits—Bottomfish; 220-56-255 Halibut season; 220-56-265 Baitfish—Lawful gear; 220-56-310 Shellfish—Daily bag limits; 220-56-335 Crab—Unlawful acts; 220-56-350 Hardshells, cockles, mussels—Areas and seasons; 220-56-355 Clams—Unlawful acts; 220-56-380 Oysters—Areas and seasons; 220-57-130 Bogachiel River; 220-57-135 Calawah River; 220-57-160 Columbia River; 220-57-200 Dickey River; 220-57-220 Duwamish River; 220-57-230 Elk River; 220-57-240 Elwha River; 220-57-270 Hoh River; 220-57-285 Humpulips River; 220-57-290 Icicle River; 220-57-327 McLane Creek; 220-57-335 Naselle River; 220-57-385 Quillayute River; 220-57-445 Snake River; 220-57-460 Soleduck River; 220-57-495 Washougal River; 220-57-505 White Salmon River; 220-57-515 Wind River; 220-57A-175 Lake Washington; and 220-57A-180 Washington Ship Canal, Lake.

Description of Purpose: Modify personal use fishing rules.

Statutory Authority: RCW 75.08.080.

Summary of Rule and Reasons Supporting Proposed Action: WAC 220-20-010 allows snagging of baitfish. Baitfish jigger gear is intended to snag, and this prevents violation of the code through use of such gear; WAC 220-56-105 defines mouth of Dakota Creek. Prevents saltwater anglers from inadvertently fishing within the creek, which is not open to salmon fishing; WAC 220-56-115 (a) allows one lure for baitfish. This prevents use of multiple baitfish jigger gears as baitfish jigger gear is defined as a single lure, (b) provides for disability permit

to use power operated reels from boats. There is a legitimate need for use of power operated reels by handicapped persons, but strict requirements are necessary to distinguish commercial gear being used by opportunistic sport anglers; WAC 220-56-180 (a) provides for multiple options to reduce catch imbalances. The department is attempting to redress catch imbalances between treaty and nontreaty user groups, and these options assist in accomplishing that goal, (b) changes Game Commission references to Wildlife Commission. The name of the commission was changed by the 1987 legislature; WAC 220-56-185 creates new catch area codes for Willapa Bay, Grays Harbor, Port Susan and Port Gardner. New areas are needed in order to distinguish the catch from these areas for better management; WAC 220-56-195 (a) removes Swinomish Channel from Skagit Bay closure. A harvestable surplus of salmon exists during the period of the Skagit Bay closure, (b) includes Samish and Padilla bays in the Bellingham Bay closure. The stocks returning to the Nooksack River transit this area, and increasing the closed area would provide additional protection, (c) seasonally closes upper Carr Inlet. This closure protects White River spring chinook stocks, and has been in effect for several years. This is an option for closure together with WAC 220-56-199, (d) provides earlier closure in Quilcene Bay, provide option of increased closed area. A combination of one or both of these changes would increase protection for spring chinook returning to the Quilcene River, (e) seasonally closes Elliott Bay. Provides protection for Green River chinook, (f) seasonally closes Port Susan. Provides protection for Stillaguamish-Snohomish chinook; WAC 220-56-199 seasonally closes chinook fishery in upper Carr Inlet. This closure would provide protection for White River chinook stocks. This is an option for closure together with WAC 220-56-195 (c) above; WAC 220-56-205 (a) disallows treble hooks on nonbuoyant lures. This will prevent snagging of food fish, (b) requires hooks to be attached within three inches of bait or lure. This will prevent snagging of fish but allow for use of a trailing hook for short striking fish; WAC 220-56-235 establishes bag limit of 10 surfperch east of the Sekiu River. This provides protection for surfperch stocks; WAC 220-56-255 reduces halibut season length and creates different seasons inside and outside Bonilla-Tatoosh line. This will provide protection for halibut by reducing the total catch; WAC 220-56-265 limits baitfish jigger gear hook size. This confirms the intent of the regulation is to take baitfish only, and prevents use of outsize hooks that could take other species; WAC 220-56-310 makes 40 clams the state-wide bag limit. This prevents overharvest of clams; WAC 220-56-335 makes 6-1/4 inch the minimum state-wide size for Dungeness crabs, except for Hood Canal. This will reduce the take of juvenile crabs and provide for more spawning adult male crabs; WAC 220-56-350 (a) prevents Guss Island clam digging. This protects burial sites on the island and insures an orderly fishery, (b) opens Kayak Point to limited digging. A harvestable surplus of clams is available for a limited amount of digging; WAC 220-56-355 sets minimum size of 1-1/2 inches for Manilla, native, and butter clams. This will reduce the

The authority under which these rules are proposed is RCW 28A.100.054.

Dated: January 20, 1988

By: Frank B. Brouillet  
Superintendent of Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-310 WAC.

Rule Section(s): WAC 392-310-010, 392-310-015, 392-310-020 and 392-310-025.

Statutory Authority: RCW 28A.100.054.

Purpose of the Rule(s): Establish policies and procedures implementing schools for the twenty-first century pilot projects program.

Summary of the New Rule(s) and/or Amendments: Chapter 392-310 WAC adopts and incorporates by reference the rules of the State Board of Education (chapter 180-110 WAC) implementing the schools for the twenty-first century pilot projects program.

Reasons Which Support the Proposed Action(s): To establish a reasonably clear and uniform basis for the implementation and administration of the schools for the twenty-first century pilot projects program, including the waiver of rules of the Superintendent of Public Instruction and the performance of administrative functions in behalf of the State Board of Education.

Section Analysis: Chapter 392-310 WAC, Grant programs—Schools for the twenty-first century; WAC 392-310-010 states authority for the rules; 392-310-015 states the purpose of the rules; 392-310-020 defines administrative functions of the Superintendent of Public Instruction; and 392-310-025 defines incorporation by reference of State Board of Education rules.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Marcia Costello, SPI, 6-4512; and Enforcement: Dr. Charles Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

Chapter 392-310 WAC

GRANT PROGRAM—SCHOOLS FOR THE TWENTY-FIRST CENTURY

WAC

392-310-010	Authority.
392-310-015	Purpose.
392-310-020	Administrative functions of the superintendent of public instruction.
392-310-025	Incorporation by reference of state board of education rules.

NEW SECTION

WAC 392-310-010 AUTHORITY. The authority for this chapter is RCW 28A.100.054 which authorizes the superintendent of public instruction to adopt rules to implement the superintendent of public instruction's duties related to the schools for the twenty-first century pilot projects program.

NEW SECTION

WAC 392-310-015 PURPOSE. The purpose of this chapter is to establish policies and procedures implementing the schools for the twenty-first century pilot projects program.

NEW SECTION

WAC 392-310-020 ADMINISTRATIVE FUNCTIONS OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION. The administrative responsibilities of the superintendent of public instruction respecting the schools for the twenty-first century pilot projects program include each of the following activities:

(1) Administration of the policies and procedures established by the state board of education at chapter 180-110 WAC.

(2) Receipt and disbursement of public and private moneys made available for the support of the pilot projects program.

(3) Collection and dissemination of information respecting the pilot projects program through the state clearinghouse for education information.

NEW SECTION

WAC 392-310-025 INCORPORATION BY REFERENCE OF STATE BOARD OF EDUCATION RULES. The rules of the state board of education set forth at chapter 180-110 WAC are hereby incorporated into and made a part of this chapter including, but not limited to, WAC 180-110-050 which shall likewise govern the modification or waiver of a rule of the superintendent of public instruction by the superintendent of public instruction.

WSR 88-03-074

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Filed January 20, 1988]

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 the siting of dangerous waste management facilities.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 1, 1988.

The authority under which these rules are proposed is chapter 70.105 RCW.

The specific statute these rules are intended to implement is RCW 70.105.210.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before January 25, 1988.

This notice is connected to and continues the matter in Notice No. WSR 87-24-099 filed with the code reviser's office on December 2, 1987.

Dated: January 20, 1988

By: Phillip C. Johnson

WSR 88-03-075

PROPOSED RULES

DEPARTMENT OF FISHERIES

[Filed January 20, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning personal use fishing rules.

At 10:00 a.m., Saturday, February 27, 1988, simultaneous hearings will be held in: Anthon 102, Yakima

dollars, any excess to be counted against the resource limit. An automobile may be excluded under this ((subsection)) subdivision only if no automobile is excluded under ((subsection (3)))(a) of this ((section)) subsection;

(c) Other automobiles shall be treated as nonexempt resources and counted towards the resource limit to the extent of their equity value.

(4) Property of a trade or business which is essential to the means of self-support; however, it shall not include liquid resources as defined in WAC 388-92-005 even though such liquid resource may be producing income. This property means items commonly referred to as tangible business assets such as land and buildings, equipment and supplies, inventory, cash on hand, accounts receivable, etc. The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent.

(5) Nonbusiness property which is essential to the means of self-support. ((This shall include:

(a) Nonliquid (see WAC 388-92-005), nonbusiness property if it is relied upon by the individual as a significant factor in producing income on which he can live, or is used to produce goods, or provide services essential to the individual's support. The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent.

(b) Property used exclusively to produce items for home consumption provided the items are significant factors for support and maintenance of the individual.

(c) Tools, equipment, uniforms and similar items required by the individual's employer.

(d) A motor vehicle (in addition to that already excluded) which is essential because of climate, terrain, or similar factors, or special modification, and required to provide necessary transportation. The limitation on value of such vehicle is the same as in subsection (3) of this section.) See WAC 388-92-045(5).

(6) Resources of a blind or disabled individual which are necessary to fulfill an approved plan for achieving self-support for so long as such plan remains in effect.

(7) Shares of stock held in a regional or village corporation during the period of twenty years ending January 1, 1992, in which such stock is inalienable pursuant to the Alaska Native Claims Settlement Act.

(8) Life insurance ((owned by an individual and spouse, if any, to the extent of its cash surrender value, provided that):

(a) If the total face value of policies held by each individual is ((~~(\$1,500)~~) one thousand five hundred dollars or less(~~(, in which case the cash surrender value is not evaluated.)~~)) the total cash surrender value shall be excluded.

(b) If the face value of policy(ies) held by each individual is over ((~~(\$1,500)~~) one thousand five hundred dollars there shall be no exclusion, cash surrender value must be applied to resource limitations.

(c) Term or burial insurance with no cash surrender value ((~~(is)~~) shall not be considered in determining total face value in (a) of this subsection.

(9) Restricted ownership: Restricted allotted land owned by an enrolled member and spouse, if any, of an Indian tribe, if such land cannot be sold, transferred or otherwise disposed of without permission of other individuals, his tribe or an agency of the federal government.

(10) Insurance settlements: Cash received from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., ((~~(is)~~) shall be excluded as a resource provided the total amount of the cash is used to repair or replace such excluded resource within nine months that period may be extended based on circumstances beyond the control of the applicant to a maximum of nine additional months. Any such cash not so used within such time periods ((~~(is)~~) shall be considered as an available resource.

(11) Burial spaces.

(a) The value of burial spaces for the individual, the individual's spouse or any member of the individual's immediate family.

(b) Burial spaces shall include conventional gravesites, crypts, mausoleums, urns, and other repositories which are customarily and traditionally used for the remains of deceased persons.

(c) For purposes of this subsection immediate family means an individual's minor and adult children, including adopted children and stepchildren; an individual's brothers, sisters, parents, adoptive parents, and the spouses of those individuals. Neither dependency nor living-in-the-same-household will be a factor in determining whether a person is an immediate family member.

(12) Funds set aside for burial expenses.

(a) Of the funds specifically set aside for the burial arrangements of an individual or the individual's spouse exclude only an amount which

may not ((~~to~~) exceed ((~~\$1,500~~)) one thousand five hundred dollars for each spouse. Burial funds in excess of this limit shall be counted towards the resource limit in WAC 388-92-050.

(b) This exclusion ((~~(applies)~~) shall apply if the inclusion of any portion of such amount would cause the resources of the individual (or spouse, if any) to exceed the limits specified in WAC 388-95-390.

(c) Funds set aside for burial expenses must be ((~~kept separate from other resources not set aside for burial. If such funds are mixed with other resources not intended for burial, the exclusion will not apply to any portion of the funds and will be treated as nonexcluded resources~~)) separately identifiable and designated as set aside for burial. Designation may be used to exclude burial funds retroactively back to the first day of the month in which the individual intended funds set aside for burial or to November 1, 1982, whichever is later.

(d) Funds set aside for burial includes revocable burial contract, burial trust, or other burial arrangement or any other separately identifiable fund which is clearly designated as set aside for the individual's (or spouse's, if any) burial expenses.

(e) The ((~~(\$1,500)~~) one thousand five hundred dollar exclusion ((~~(must)~~) shall be reduced by the face value of insurance policies on the life of an individual owned by the individual or spouse if the ((~~cash surrender value of those~~)) policies ((~~(has)~~) have been excluded as provided in subsection (8) of this section and amounts in an irrevocable trust.

(f) Interest earned on excluded burial funds and appreciation on the value of excluded burial arrangements are excluded from resources if left to accumulate and become a part of the separately identifiable burial fund.

(g) ((~~Burial funds used for other purposes. Funds or interest earned on funds and appreciation in the value of burial arrangements which have been excluded from resources because they are burial funds must be used solely for that purpose.~~)) If any excluded burial funds, interest or appreciated values set aside for burial expenses are used for a purpose other than the burial arrangements of the individual or the individual's spouse for whom the funds were set aside, future medical assistance benefits of the individual (or the individual and individual's spouse) ((~~(with)~~) shall be reduced by an amount equal to the amount of burial funds, interest or appreciated value used for other purposes.

(13) Other resources excluded by federal statute.

(14) Retroactive payments: Exclude retroactive SSI or OASDI payments ((~~(are excluded)~~)) from resources for six months following the month of receipt. This exclusion applies to:

(a) Payments received on or after October 1, 1984.

(b) Payments received by the individual, spouse, and/or any other person whose income is considered available to meet the applicant's or recipient's needs.

(c) SSI payments made for benefits due for a month prior to the month of payment.

(d) OASDI payments made for benefits due for a month that is two or more months prior to the month of payment.

(e) Payments that remain in the form of cash, checking or saving accounts; this exclusion ((~~(does)~~) shall not apply once the retroactive payment has been converted to any other form.

WSR 88-03-073

PROPOSED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed January 20, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning Grant program—Schools for the twenty-first century, chapter 392-310 WAC;

that the agency will at 9:00 a.m., Monday, February 29, 1988, in the Old Capitol Building, State Board Conference Room, conduct a public hearing on the proposed rules.

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

(b) If the face value of policy(ies) held by each individual is over ~~(\$1,500)~~ one thousand five hundred dollars there shall be no exclusion, cash surrender value must be applied to resource limitations.

(c) Term or burial insurance with no cash surrender value (~~is not considered~~) shall be excluded in determining total face value in (a) of this subsection.

(9) Restricted ownership: Restricted allotted land owned by an enrolled member and spouse, if any, of an Indian tribe, if such land cannot be sold, transferred or otherwise disposed of without permission of other individuals, his tribe or an agency of the federal government.

(10) Insurance settlements: Cash received from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., (~~is~~) shall be excluded as a resource provided the total amount of the cash is used to repair or replace such excluded resource within nine months that period may be extended based on circumstances beyond the control of the applicant to a maximum of nine additional months. Any such cash not so used within such time periods (~~is~~) shall be considered as an available resource.

(11) Burial spaces.

(a) The value of burial spaces for the individual, the individual's spouse or any member of the individual's immediate family.

(b) Burial spaces shall include conventional gravesites, crypts, mausoleums, urns, and other repositories which are customarily and traditionally used for the remains of deceased persons.

(c) For purposes of this subsection immediate family means an individual's minor and adult children, including adopted children and stepchildren; an individual's brothers, sisters, parents, adoptive parents, and the spouses of those individuals. Neither dependency nor living-in-the-same-household will be a factor in determining whether a person is an immediate family member.

(12) Burial funds (~~set aside for burial expenses~~):

(a) Of the funds specifically set aside for the burial arrangements of an individual or the individual's spouse exclude only an amount which may not (~~to~~) exceed (~~\$1,500~~) one thousand five hundred dollars for each spouse. Burial funds in excess of this limit shall be counted towards the resource limit in WAC 388-92-050.

(b) This exclusion (~~applies~~) shall apply if the inclusion of any portion of such amount would cause the resources of the individual (or spouse, if any) to exceed the limits specified in WAC 388-92-050.

(c) Funds set aside for burial expenses must be (~~kept separate from other resources not set aside for burial. If such funds are mixed with other resources not intended for burial, the exclusion will not apply to any portion of the funds and will be treated as nonexcluded resources~~) separately identifiable and designated as set aside for burial. Designation may be used to exclude burial funds retroactively back to the first day of the month in which the individual intended funds set aside for burial or to November 1, 1982, whichever is later.

(d) Funds set aside for burial includes revocable burial contract, burial trust, or other burial arrangement or any other separately identifiable fund which is clearly designated as set aside for the individual's (or spouse's, if any) burial expenses.

(e) The (~~\$1,500~~) one thousand five hundred dollars exclusion (~~must~~) shall be reduced by: (i) The face value of insurance policies on the life of an individual owned by the individual or spouse if the (~~cash surrender value of those~~) policies (~~has~~) have been excluded as provided in subsection (8) of this section and (ii) amounts in an irrevocable trust.

(f) Interest earned on excluded burial funds and appreciation on the value of excluded burial arrangements are excluded from resources if left to accumulate and become a part of the separately identifiable burial fund.

(g) (~~Burial funds used for other purposes. Funds or interest earned on funds and appreciation in the value of burial arrangements which have been excluded from resources because they are burial funds must be used solely for that purpose.~~) If any excluded burial funds, interest or appreciated values set aside for burial expenses are used for a purpose other than the burial arrangements of the individual or the individual's spouse for whom the funds were set aside, future medical assistance benefits of the individual (or the individual and individual's spouse) (~~with~~) shall be reduced by an amount equal to the amount of burial funds, interest or appreciated value used for other purpose.

(13) Other resources excluded by federal statute.

(14) Retroactive payments: Exclude retroactive SSI or OASDI payments (~~are excluded~~) from resources for six months following the month of receipt. This exclusion applies to:

(a) Payments received on or after October 1, 1984.

(b) Payments received by the individual, spouse, and/or any other person whose income is considered available to meet the applicant's or recipient's needs.

(c) SSI payments made for benefits due for a month prior to the month of payment.

(d) OASDI payments made for benefits due for a month that is two or more months prior to the month of payment.

(e) Payments that remain in the form of cash, checking or saving accounts; this exclusion (~~does~~) shall not apply once the retroactive payment has been converted to any other form.

#### AMENDATORY SECTION (Amending Order 2204, filed 2/13/85)

WAC 388-95-380 EXCLUDED RESOURCES. Applicants or recipients may transfer or exchange (~~an~~) exempt resources. Exclude cash received from the sale of an exempt resource (~~is excluded provided the total amount of cash~~) to the extent that it is used to replace or reinvest in another exempt resource within three months. Consider any remaining portion (~~in excess of allowed resources shall be considered~~) a nonexempt resource (~~if the individual's eligibility continues without a break in certification~~). In determining the value of resources (~~of an individual and spouse, if any~~) the department shall exclude the following (~~items shall be excluded up to the dollar limit, if any, as indicated~~):

(1) (~~The~~) A home (~~or the proceeds from the sale of a home, which is an excluded resource, will also be excluded to the extent that they are reinvested in the purchase of another home which is similarly excluded within three months of the date of receipt of proceeds~~):

(a) (~~The~~) A home (~~of the individual must be the individual's principal place of residence in order to be an excluded resource~~) is any shelter:

(i) In which the client(s) has ownership interest; and

(ii) Which is used by the client(s) as the principal place of residence. Only one home may be the principal place of residence.

(~~Temporary~~) (b) Absences from the home (~~including absences from home for trips, visits, and hospitalizations do~~) shall not (~~offset~~) affect the home exclusion. It continues to be the principal place of residence as long as:

(i) The individual intends to return home(-);

(~~ii~~) An absence of more than six months may indicate that the home no longer serves as the principal place of residence. See WAC 388-95-360(4)(d).

(~~iii~~) The home continues to be excluded if the individual intends to return and there is a likelihood that he/she will return.

(~~iv~~) When an institutionalized individual intends to return home, a physician's evaluation of his/her ability to return at some future time to a home setting may be used as the basis of a temporary absence determination. The evidence must be conclusive before a determination can be made that the individual is unable to return home.

(~~v~~) Transfer of a home during a temporary absence may constitute evidence that the individual no longer intends to return. Adequate consideration must be received and allocated to the individual's resources. See WAC 388-92-043, transfer of property at less than fair market value.

(~~b~~) Accept the client's statement of intent without challenge; or

(ii) The home is used by a spouse or dependent relative during the individual's absence(~~it will continue to be considered the principal place of residence~~). Dependency may be either financial or medical. The client's or dependent relative's written allegation of dependency or relationship shall be accepted unless there is reason to question it.

(c) The proceeds from the sale of the excluded home shall be excluded to the extent they are used to purchase another home within three months of the receipt of the proceeds. Proceeds shall include real estate contracts, or any similar home financing arrangements, and the income stream produced by them.

(2) Household goods and personal effects.

(3) (~~An~~) Automobile(s):

(a) (~~Is~~) Totally (~~excluded~~) exclude one automobile regardless of its value if it is:

(i) Necessary for employment; or

(ii) Necessary for the individual's medical treatment; or

(iii) Modified for operation by, or transportation of, a handicapped person; or

(iv) Necessary because of climate, terrain, distance, or similar factors to provide necessary transportation to perform essential daily activities.

(b) (~~Is excluded~~) Exclude one automobile to the extent its current market value does not exceed (~~\$4,500~~) four thousand five hundred

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by February 11, 1988. The meeting site is in a location which is barrier free.

Dated: January 20, 1988

By: Leslie F. James, Director  
Administrative Services

### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-92-045 and 388-95-380.

Purpose: To update resource exclusions.

Reason: Current regulations do not comply with SSI regulations, 20 CFR 416.1210-64.

Statutory Authority: RCW 74.08.090.

Summary: The proposed changes will clarify when the home is an excluded resource, that only one automobile may be excluded, and how to treat burial funds that exceed the limitations.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Jim Sparks, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-7316.

Rules are proposed by DSHS.

These rules not necessary as a result of a new state or federal law.

No economic impact statement is required under the Regulatory Fairness Act.

### AMENDATORY SECTION (Amending Order 2204, filed 2/13/85)

WAC 388-92-045 EXCLUDED RESOURCES. Applicants or recipients may transfer or exchange ~~((an))~~ exempt resources. Exclude cash received from the sale of an exempt resource ~~((is excluded provided the total amount of cash))~~ to the extent that it is used to replace or reinvest in another exempt resource within three months. Consider any remaining portion ~~((in excess of allowed resources shall be considered))~~ a nonexempt resource ~~((if the individual's eligibility continues without a break in certification))~~. In determining the value of resources ~~((of an individual and spouse, if any))~~ the department shall exclude the following ~~((items shall be excluded up to the dollar limit, if any, as indicated))~~:

(1) ~~((The))~~ A home ~~((or the proceeds from the sale of a home, which is an excluded resource, will also be excluded to the extent that they are reinvested in the purchase of another home which is similarly excluded within three months of the date of receipt of proceeds))~~:

(a) ~~((The))~~ A home ~~((of the individual must be the individual's principal place of residence in order to be an excluded resource))~~ is any shelter:

(i) In which the client(s) has ownership interest; and  
(ii) Which is used by the client(s) as the principal place of residence. Only one home may be the principal place of residence.

~~((Temporary))~~ (b) Absences from the home ~~((including absences from home for trips, visits, and hospitalizations do))~~ shall not ~~((offset))~~ affect the home exclusion. It continues to be the principal place of residence as long as:

(i) The individual intends to return home.  
(ii) An absence of more than six months may indicate that the home no longer serves as the principal place of residence. See WAC 388-83-140 (4)(d).

~~((iii))~~ The home continues to be excluded if the individual intends to return and there is a likelihood that he/she will return.

~~((iv))~~ When an institutionalized individual intends to return home, a physician's evaluation of his/her ability to return at some future time to a home setting may be used as the basis of a temporary absence determination. The evidence must be conclusive before a determination can be made that the individual is unable to return home.

~~((v))~~ Transfer of a home during a temporary absence may constitute evidence that the individual no longer intends to return. Adequate consideration must be received and allocated to the individual's resources. See WAC 388-92-043, transfer of property at less than fair market value.

~~((b))~~ ~~((f))~~ Accept the client's statement of intent without challenge; or  
(ii) The home is used by a spouse or dependent relative during the individual's absence ~~((; it will continue to be considered the principal place of residence))~~. Dependency may be either financial or medical. The client's or dependent relative's written allegation of dependency or relationship shall be accepted unless there is reason to question it.

(c) The proceeds from the sale of the excluded home shall be excluded to the extent they are used to purchase another home within three months of the receipt of the proceeds. Proceeds shall include real estate contracts, or any similar home financing arrangements, and the income stream produced by them.

(2) Household goods and personal effects.

(3) ~~((An))~~ Automobile(s):

(a) ~~((Is))~~ Totally ~~((excluded))~~ exclude one automobile regardless of its value if it is:

(i) Necessary for employment; or

(ii) Necessary for the individual's medical treatment; or

(iii) Modified for operation by, or transportation of, a handicapped person; or

~~((iv))~~ Necessary because of climate, terrain, distance, or similar factors to provide necessary transportation to perform essential daily activities.

(b) ~~((Is excluded))~~ Exclude one automobile to the extent its current market value does not exceed ~~(( \$4,500 ))~~ four thousand five hundred dollars, any excess to be counted against the resource limit. An automobile may be excluded under this ~~((subsection))~~ subdivision only if no automobile is excluded under ~~((subsection (3))~~(a) of this ~~((section))~~ subsection;

(c) Other automobiles shall be treated as nonexempt resources and counted towards the resource limit to the extent of their equity value.

(4) Property of a trade or business which is essential to the means of self-support; however, it shall not include liquid resources as defined in WAC 388-92-005 even though such liquid resource may be producing income. This property means items commonly referred to as tangible business assets such as land and buildings, equipment and supplies, inventory, cash on hand, accounts receivable, etc. The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent.

(5) Nonbusiness property which is essential to the means of self-support. This shall include:

(a) Nonliquid (see WAC 388-92-005), nonbusiness property if it is relied upon by the individual as a significant factor in producing income on which he can live, or is used to produce goods, or provide services essential to the individual's support. The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent.

(b) Property used exclusively to produce items for home consumption provided the items are significant factors for support and maintenance of the individual.

(c) Tools, equipment, uniforms and similar items required by the individual's employer.

(d) ~~((A motor vehicle (in addition to that already excluded) which is essential because of climate, terrain, or similar factors, or special modification, and required to provide necessary transportation. The limitation on value of such vehicle is the same as (3) above.))~~ The exclusion may also include an additional automobile or other motor vehicle (truck, tractor, trailer, etc.) if the vehicle excluded under subsection (3) of this section cannot also fulfill the self support functions.

(6) Resources of a blind or disabled individual which are necessary to fulfill an approved plan for achieving self-support for so long as such plan remains in effect.

(7) Shares of stock held in a regional or village corporation during the period of twenty years ending January 1, 1992, in which such stock is inalienable pursuant to the Alaska Native Claims Settlement Act.

(8) Life insurance ~~((owned by an individual and spouse, if any, to the extent of its cash surrender value, provided that))~~:

(a) If the total face value of policies held by each individual is ~~(( \$1,500 ))~~ one thousand five hundred dollars or less ~~((; in which case the cash surrender value is not evaluated))~~ the total cash surrender value shall be excluded.

AMENDATORY SECTION (Amending Order PL 465, filed 4/18/84)

WAC 308-53-030 TEMPORARY PERMIT ((~~RECOMMENDATION~~) POLICY RECOMMENDATION). To protect the public, the board recommends to the director that temporary permits not be issued ((~~under the director's discretion~~)) pursuant to the discretion granted in RCW 18.53.030. However, if a temporary permit is issued the board recommends that the applicant must be under the direct and immediate supervision of a currently licensed optometrist who is at all times on the same premises.

AMENDATORY SECTION (Amending Order PL 326, filed 12/28/79)

WAC 308-53-100 CONTINUING EDUCATION REQUIREMENT. Each applicant for renewal of a license to practice optometry in the state of Washington must have completed ((~~thirty~~)) fifty hours of continuing education within the two years previous to his first renewal date ((~~on or after January 1, 1979~~)), and must complete ((~~thirty hours of continuing education within each successive two-year period. For example, an individual with a renewal date of January 3, 1979, must have completed thirty credit hours of continuing education within the period beginning January 3, 1977, and ending January 2, 1979. On his renewal date of January 3, 1980, he will be eligible for renewal regardless of the number of continuing education credit hours he has accumulated since January 3, 1979. PROVIDED, That he meets all other requirements for renewal, but then to be eligible for license renewal on January 3, 1981, he must have completed an additional thirty credit hours of continuing education within the period beginning January 3, 1979, and ending January 2, 1981, and so on for as long as he continues to practice. PROVIDED, HOWEVER, That each applicant for renewal of a license to practice optometry in the state of Washington must have completed fifty hours of continuing education within the two years previous to his first renewal date on or after January 1, 1985, and must complete~~)) fifty hours of continuing education within each successive two-year period. 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. Failure to complete this requirement is cause for revocation of the license of any optometrist pursuant to RCW ((~~18.53.100(14)~~)) 18.130.180(7), or for refusal to renew the license of any optometrist, except that an optometrist applying for the first renewal of his license subsequent to his initial licensing will be exempt from this requirement.

AMENDATORY SECTION (Amending Order PL 465, filed 4/18/84)

WAC 308-53-120 COURSES PRESUMED TO QUALIFY FOR CREDIT. Courses offered by the organizations listed in this section will be presumed to qualify as continuing education courses without specific prior approval of the board((~~†~~)), but the board reserves the authority to refuse to accept credits in any course if the board determines that the course did not provide information or training sufficient in amount or relevancy. Organizations for the purposes of this section shall include:

- (1) The American Optometric Association.
- (2) Any college or school of optometry whose scholastic standards are deemed sufficient by the board under RCW 18.53.060(2).
- (3) The Washington Optometric Association.
- (4) Any state optometric association which is recognized by the licensing authority of its state as a qualified professional association or educational organization.
- (5) The state optometry board.
- (6) The optometry licensing authority of any other state.
- (7) The American Academy of Optometry.
- (8) The Optometric Extension Program.
- (9) The College of Optometrists and Visual Development.
- (10) The National Eye Research Foundation.
- (11) Regional congresses of any of the organizations listed in subsections (1) through (10) of this section.

((~~12~~) The Commission on Continuing Optometric Education of the American Optometric Association, category one courses:))

AMENDATORY SECTION (Amending Order PL 331, filed 3/21/80)

WAC 308-53-145 CREDIT FOR REPORTS. Continuing education credit may be given for reports on professional optometric literature. Such report shall list ten descriptive basic statements from ((~~an article(s) or sequence of articles~~)) each article for each hour of credit. Such report shall be submitted typewritten to the department of licensing, professional licensing division in Olympia. Professional literature approved for such reports are: American Journal of Optometry and Physiological Optics, American Optometric Association News, Contact Lens Forum, Contacto, Insight, International Contact Lens Clinic, Journal of American Optometric Association, Journal on Optometric Education, Journal of Optometric Vision Development, OEP Monthly, Optometric Management, Optometric Monthly, Optometric World, Review of Optometry, 20/20 Magazine. Other professional literature may be submitted in advance for the board's consideration and approval. Literature utilized shall not be issuance dated over two years on the date of submission of the report for credit. Reports shall list the title of the article(s), literature that the article(s) was taken from, the date of issuance/publication of the literature, page(s) utilized, and author(s). A copy of the article utilized shall be submitted whenever possible.

The combined maximum continuing education credit that may be granted under this section and WAC 308-53-146 is twenty percent for every two-year requirement period.

AMENDATORY SECTION (Amending Order PL 239, filed 3/3/76)

WAC 308-53-170 SURPLUS CREDIT HOURS. Continuing education credits in excess of the required hours earned in any renewal period may not be carried forward to a subsequent ((~~renewal~~)) reporting period.

**WSR 88-03-072**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed January 20, 1988]

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 excluded resources, amending WAC 388-92-045 and 388-95-380;

that the agency will at 10:00 a.m., Thursday, February 25, 1988, in the Auditorium, OB-2, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on February 26, 1988.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 25, 1988.

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

Leslie F. James, Director  
 Administrative Services  
 Department of Social and Health Services  
 Mailstop OB 39  
 Olympia, WA 98504

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(11) Similkameen River*	Loomis* 15 Oroville 15	From the Canadian Border (Sec.4,T40N,R25E) downstream to mouth at Okanogan River (Sec.9, T39N,R27E) excluding all federal lands. This stream has over 200 cfs MAF and over 300 sq. miles of drainage at Canadian Border.
(12) Sinlahekin River (Creek)	Conconully 15 Loomis 15	From the confluence on the Sarsapkin Creek and Sinlahekin Creek (Sec. 10,T37N,R25E) downstream to mouth at Palmer Lake (Sec.13,T39N,R25E).
(13) Toats Coulee Creek	Horseshoe Basin 15 Loomis 15	From the confluence of South and Middle Fork Toats Coulee Creek (Sec.35,T39N,R24E) downstream to mouth at Sinlahekin Creek (Sec. 35,T39N,R25E).
(14) Toroda Creek	Bodie Mt. 15	From the confluence of Beaver Creek and Toroda Creek (Sec.22,T39N,R31E) downstream to the Ferry County line (Sec.25, T40N,R31E) excluding federal lands.
(15) Twisp River*	Concrete AMS Winthrop* 7 1/2 Twisp West 7 1/2 Twisp East 7 1/2	From the Okanogan National Forest boundary (Sec.10,T33N,R21E) downstream to mouth at Methow River (Sec.8, T33N,R22E). The flow exceeds 200 cfs MAF at Okanogan N.F. boundary.
(16) Wolf Creek	Concrete AMS Thompson Ridge 7 1/2 Winthrop 7 1/2	From the Okanogan National Forest boundary (Sec.6,T34N,R21E) downstream to mouth at Methow River (Sec.32, T35N,R21E).

The authority under which these rules are proposed is RCW 18.54.070.

The specific statute these rules are intended to implement is RCW 18.54.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 5:00 p.m., Wednesday, February 24, 1988.

Dated: January 20, 1988

By: Cynthia J. Jones  
Program Manager

**STATEMENT OF PURPOSE**

Name of Agency: Washington State Board of Optometry.

Purpose of Proposed Amendments: Housekeeping and updating rules to conform with current statutes.

Statutory Authority: RCW 18.54.070.

Summary of the Rules: WAC 308-53-010 relates to procedure for renewing licenses; 308-53-030 recommends that the director, in her discretion, not issue temporary permits; 308-53-100 relates to required continuing education; 308-53-120 relates to which courses are presumed to qualify for continuing education credit without prior approval; 308-53-145 relates to continuing education credits for reports on professional optometric literature; and 308-53-170 relates to surplus continuing education hours over the required amount.

Responsible Personnel: The Washington State Board of Optometry and the program manager for the board have the responsibility for drafting, implementing and enforcing these rules. The program manager is Cynthia Jones, 1300 Quince Street S.E., Olympia, Washington 98504, phone (206) 753-1966.

Proponents of Proposed Rules: Washington State Optometry Board.

Federal Law or Federal or State Court Requirements: Not necessitated as the result of federal or state court action.

Small Business Economic Impact Statement: Not required as these rules do not impact small business as that term is defined in RCW 43.31.920.

**AMENDATORY SECTION (Amending Order PL 239, filed 3/3/76)**

WAC 308-53-010 RENEWAL OF LICENSES. (1) The annual license renewal date for licensed optometrists (~~is hereby changed to~~) coincides with the licensee's birthdate. Individuals making application for initial license and examination, provided they meet all such requirements, will be issued a license, to expire on their next birth anniversary date.

(2) (~~After the initial conversion to a staggered system;~~) Licensees may renew their licenses, at the annual renewal fee rate, for one year, from birth anniversary date to the next birth anniversary date.

(3) (~~In the event of failure to pay the renewal fee, the director shall mail a notice of such suspension to the last known post office address of the holder between the first and fifth days of each of the three succeeding months following the due date of the renewal fee, and if the fee is not paid by the first of the fourth month following the month of renewal, the director may declare the certificate revoked and immediately notify the county clerk of the county in which the certificate is recorded, and the clerk shall mark his records accordingly.~~)

(4) All applicants for license renewal must comply with the continuing education requirements set forth in WAC 308-53-100 to 308-53-180.

**WSR 88-03-071  
PROPOSED RULES  
DEPARTMENT OF LICENSING  
(Board of Optometry)  
[Filed January 20, 1988]**

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

- Amd WAC 308-53-010 Renewal of licenses.
- Amd WAC 308-53-030 Temporary permit policy.
- Amd WAC 308-53-100 Continuing education requirement.
- Amd WAC 308-53-120 Courses presumed to qualify for credit.
- Amd WAC 308-53-145 Credit for reports.
- Amd WAC 308-53-170 Surplus credit hours;

that the agency will at 10:00 a.m., Friday, February 26, 1988, in the West Coast Sea-Tac Hotel, Tacoma Room, 18220 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.

**AMENDATORY SECTION** (Amending Order DE 87-25, filed 8/21/87 [8/26/87])

WAC 173-19-220 GRAYS HARBOR COUNTY. Grays Harbor County master program approved August 6, 1975. Revision approved December 2, 1977. Revision approved July 17, 1978. Revision approved March 27, 1980. Revision approved June 3, 1986. Revision approved August 21, 1987. Revision approved April 5, 1988.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 88-03-070**

**ADOPTED RULES**

**DEPARTMENT OF ECOLOGY**

[Order DE 87-45—Filed January 20, 1988]

I, Phillip C. Johnson, deputy director of programs, do promulgate and adopt at Lacey, Washington, the annexed rules relating to:

- Amd WAC 173-18-280 Okanogan County.
- Amd WAC 173-22-0648 Okanogan County.

This action is taken pursuant to Notice No. WSR 87-21-081 filed with the code reviser on October 21, 1987. 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 January 5, 1988.

By Phillip C. Johnson  
Deputy Director of Programs

**AMENDATORY SECTION** (Amending Order DE 87-35, filed 10/2/87)

WAC 173-22-0648 OKANOGAN COUNTY. Okanogan County designation maps approved June 30, 1972. Revision approved August 28, 1973. Revision approved September 20, 1977. Revision approved September 29, 1987. Revision approved January 5, 1988.

**AMENDATORY SECTION** (Amending Order DE 87-35, filed 10/2/87)

WAC 173-18-280 OKANOGAN COUNTY. Streams

Stream Name	Quadrangle Name and Size	Legal Description
(1) Beaver Creek	Blue Buck Mt. 7 1/2 Twisp East 7 1/2	From the confluence of Beaver Creek and unnamed creek (NE1/4 of NE1/4 Sec. 26, T34N, R22E) downstream to mouth at Methow River (Sec.27, T33N, R22E).

Stream Name	Quadrangle Name and Size	Legal Description
(2) Bonaparte Creek	Tonasket 15	From the confluence of Bonaparte Creek and Bannon Creek (Sec.32, T37N, R28E) downstream to mouth on Okanogan River near Tonasket (Sec.16, T37N, R27E).
(3) Chewack* River	Doe Mt.* 15 Winthrop 7 1/2	From the Okanogan National Forest boundary (Sec.2, T35N, R21E) downstream to mouth at Methow River (Sec.2, T34N, R21E). The flow exceeds 200 cfs MAF at Okanogan N.F. boundary.
(4) Columbia River (cont.)*	Grand Coulee Dam 15 Bridgeport 15 Brewster 15 Wells Dam 7 1/2 Azwell 7 1/2	From the intersection of the Okanogan County line and the Colville Indian Reservation boundary (Sec. 18, T30N, R25E) downstream right bank only to Chelan County line (Sec.31, T29N, R24E). The flow exceeds 200 cfs MAF at the Colville Indian Reservation boundary.
(5) Early Winters Creek	Mazama 15	From the Okanogan National Forest boundary line (Sec.23, T29N, R19E) downstream to mouth at Methow River (Sec.27, same township).
(6) Gold Creek	Concrete AMS Methow 7 1/2	From the confluence of Gold Creek and South Fork Gold Creek (Sec.17, T31N, R22E) downstream to mouth at Methow River (Sec.16, same township).
(7) Methow River*	Mazama 15* Brewster 15 Doe Mtn. 15 Thompson Ridge 15 7 1/2 Winthrop 7 1/2 Blue Buck Mtn. 7 1/2 Twisp East 7 1/2 Methow 7 1/2 Cooper Mtn. 7 1/2	From the Okanogan National Forest boundary (Sec.6, T36N, R19E) downstream to mouth at the Columbia River (Sec. 36, T30N, R23E) excluding all federal lands. The stream flow is 200 cfs MAF at confluence of Methow River and Lost River (Sec.5, T37N, R19E).
(8) Myers Creek	Mt. Bonaparte 15	From the confluence of Myers Creek and Mary Ann Creek (Sec.28, T40N, R30E) downstream to the Canadian Border (Sec.3, same township).
(9) Okanogan River*	Oroville* 15 Tonasket 15 Omak Lake 15 Okanogan 15 Bridgeport 15 Conconully 15	From the United States-Canadian Border crossing Osoyoos Lake (Sec. 4&5, T40N, R27E) downstream on both shores to Colville Indian Reservation (Sec.6, T34N, R27E) the west shore only to mouth at Columbia River (Sec.18, T30N, R25E), excluding all federal lands. This stream has over 200 cfs MAF and over 300 sq. miles of drainage area at United States-Canadian Border.
(10) Sanpoil River (W. Fk.)	Aeneas Valley 15 Aeneas 15	From the confluence of West Fork Sanpoil River and Frosty Creek (Sec. 12, T35N, R30E) to the Okanogan National Forest boundary (Sec.22, T35N, R31E).

(2) Any registrant who tenders two or more checks that are subsequently dishonored by the bank or other financial institution upon whom they were drawn, in any twelve continuous month period, may be required to tender all subsequent payments in person by cash or by cashier's check, certified check, or money order.

(3) A handling fee in the amount of ten dollars shall be assessed the drawer for each check dishonored by the bank or other financial institution upon whom it was drawn and interest on the amount of each check shall accrue from the date of dishonor at the rate of twelve percent per annum. The interest and handling fee shall be deposited into the highway safety fund.

#### NEW SECTION

**WAC 308-91-160 RECIPROCITY FOR COMBINATIONS OF VEHICLES.** Combinations of vehicles operating in or through the state of Washington will be granted reciprocity if the vehicles making up the combination are all properly registered in reciprocity jurisdictions. Combinations containing one or more vehicles that are not properly registered in reciprocity jurisdictions will cause all vehicles within the combination to be registered or temporarily registered in the state of Washington.

#### NEW SECTION

**WAC 308-91-170 WASHINGTON FEE/TAX RECEIPT.** When an IRP member jurisdiction, acting in behalf of the state of Washington, issues a cab card indicating a vehicle is duly registered for operation in or through the state of Washington but the IRP member jurisdiction has not first calculated and collected the prescribed fees/taxes for such vehicle, the cab card will not be honored in this state unless accompanied by a Washington fee/tax receipt. Such receipt will only be issued after this state calculates and collects the prescribed fees/taxes for the vehicle being registered.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-91-020 INSTRUCTIONS, PROCEDURES AND DECLARATIONS.

WAC 308-91-100 OPERATION OF RENTAL VEHICLES.

WAC 308-91-110 UTILITY TRAILER RENTALS—CERTIFIED AVERAGE REGISTRATION PLAN.

### **WSR 88-03-068**

#### **NOTICE OF PUBLIC MEETINGS DEPARTMENT OF COMMUNITY DEVELOPMENT (Division for Community Services)**

[Memorandum—January 20, 1988]

To coincide with a state-wide meeting scheduled in Seattle, the Washington State Department of Community Development (DCD) has changed the location of the public hearing on the proposed 1988 Department of Energy (DOE) weatherization assistance program state plan, which was previously announced as being held in Olympia and in Spokane.

The hearing will be held on Thursday, February 18, 1988, at the Holiday Inn, Sea-Tac, 17338 Pacific Highway South, Seattle, Washington. The hearing will begin promptly at 8:30 a.m. and close at 9:30 a.m., unless participation requires more time.

Two typewritten copies of all oral testimony are requested. There will be a question and answer period. Written testimony will be accepted until 5:00 p.m. on

Tuesday, February 23, 1988, sent to the attention of Katherine Friedt, Assistant Director, Division for Community Services, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151.

### **WSR 88-03-069**

#### **PROPOSED RULES**

#### **DEPARTMENT OF ECOLOGY**

[Filed January 20, 1988]

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 Grays Harbor County, amending WAC 173-19-220;

that the agency will at 2:30 p.m., Tuesday, February 23, 1988, in Room 131, Abbott Raphael Hall, St. Martin's College Campus, Lacey, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 5, 1988.

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 March 1, 1988.

Dated: January 20, 1988

By: Phillip C. Johnson

Deputy Director of Programs

#### **STATEMENT OF PURPOSE**

Title: Amending WAC 173-19-220, Grays Harbor County.

Description of Purpose: Adoption of a revised shoreline master program into state master program, chapter 173-19 WAC.

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: Adopts revisions to the shoreline master program for Grays Harbor County.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department 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: Peter Skowlund, WDOE, Mailstop PV-11, Olympia, WA 98504, (206) 459-6762.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendation 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 information supplied by agency.]

Small Business Economic Impact Statement: Not applicable.

which the fleet is registered. Jurisdiction/weight listings must begin in the upper left space provided and continue across the form to the right. Each line must be completed before starting the next line immediately below if needed. After the last entry, spaces to the right must be filled with asterisks as must be the entire line immediately below the last completed line in this section of the form. The purpose of the asterisks is to preclude entry of additional jurisdictions/weights. Retain the applicant's file copy for ~~((five))~~ four years pending possible audit of account under the provisions of RCW ~~((46.85.190))~~ 46.87.310. No refund or credit will be given for voided permits; and, they must be accounted for in the department records.

(4) The original copy of the TAP is to be carried in the vehicle to which it was issued; however, if the vehicle is a trailing unit, it may be carried in the towing vehicle. The second copy of the permit is to be retained in the carrier's files for a period of ~~((five))~~ four years pending possible audit under the provisions of RCW ~~((46.85.190))~~ 46.87.310. The third copy is to be attached to a Washington proration application supplement which is used to add the vehicle to the carrier's fleet.

(5) When TAPs have been issued, a proration application supplement Schedule "C," listing such vehicles as additions to the fleet, must be submitted to the prorate section of the department, along with the third copy of the TAP attached, within one week of the issue date of such TAPs. To facilitate compliance with this requirement, proration application supplement Schedule "C" and TAPs should be issued from the same location. Failure to submit a proration application for vehicles to which TAPs have been issued, within one week, shall be cause for suspension and cancellation of TAP and/or proportional registration privileges in the state of Washington.

(6) Other causes for suspension and cancellation of TAP and/or proportional registration privileges are:

- (a) Failure to comply with these rules and procedures; or
- (b) Failure to complete TAPs in their entirety prior to use; or
- (c) Failure to comply with Washington prorate instructions, rules or laws; or
- (d) Failure to make timely payment of registration fees, taxes or audit assessments when due and final (usually within thirty days); or
- (e) Failure to maintain accountability of TAPs.

#### AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-090 LEASED AND RENTED VEHICLES. (1) ((Vehicles which are leased or rented for a period in excess of thirty days, or a series of short term leases or rentals amounting to more than thirty days, must be registered in the name of the lessee who must also maintain accurate mileage records. For leases or rentals of thirty days or less, the lessor must maintain an accurate record of miles operated by the lessee in each jurisdiction as well as the miles that the lessor operates the vehicle)) The registration of rental vehicles will be conducted under the provisions, currently identified as article XI—registration of rental vehicles, of the international registration plan (IRP) as now written or hereafter amended. Rental vehicles under this section include: Trucks, tractors, and truck-tractors; trucks of one-way fleets (less than 26,000 pounds gross weight); trailers and semitrailers (exceeding 6,000 pounds gross weight), utility trailers (not exceeding 6,000 pounds gross weight), and passenger cars (includes recreational vehicles). A copy of the rental/lease agreement must be carried in the rental/leased vehicle or if it is a nonpowered vehicle, the vehicle providing the motive power for the combination.

(2) Single trip lease. The requirements for single trip leasing are as follows:

(a) The lessor's vehicles must be prorated in this state or operated under authority of vehicle trip permits.

(b) The duration of the lease agreement is for a single trip and cannot exceed thirty days.

(c) A completed copy of the single trip lease agreement must be carried in the lessor's vehicle throughout the duration of the lease.

(d) All mileage accumulated throughout the duration of the single trip lease agreement will be recorded by the lessor and become a part of the lessor's mileage experience year. The mileage records, trip reports and single trip lease agreement must be maintained by the lessor for a period of four years following the mileage experience year or period upon which the application is based.

(3) ~~((The compact provides that))~~ Normally the lessee of a vehicle is responsible for its licensing under proportional registration subject to the following exceptions:

(a) Household goods carriers, wherein the agent is the lessor and the company is the lessee, may file and register as dual applicants. Under

this procedure, the lessor's fleet is prorated in ~~((their))~~ its name and cab cards are issued in the name of both the lessor and lessee. The application is based on the lessor's vehicles and the mileage accumulated by the lessor under ~~((his))~~ its name and that of the lessee. The application should be ~~((registered))~~ filed in the name of the lessee and the lessor. For equipment owned and operated by owner-operators, other than service representatives, and used exclusively to transport cargo for the household goods carrier, the vehicle shall be registered by the carrier in the base jurisdiction of the carrier, but in both the owner-operator's name and that of the carrier as lessee, with the apportionment of fees according to the records of the carrier.

(b) The lessor of a single trip lease agreement is responsible for licensing and recordkeeping.

(c) Optional for rental vehicles referred to in subsection (1) of this section.

#### NEW SECTION

##### WAC 308-91-120 FEDERAL HEAVY VEHICLE USE TAX.

(1) Any owner registering a Washington based fleet of commercial vehicles in one or more other jurisdictions and engaged in interstate operation, may, in lieu of registration of vehicles under the provisions of chapter 46.16 RCW, proportionally register the vehicles of the fleet under the provisions of chapter 46.87 RCW by filing a proportional registration application with the department.

(2) The department of licensing shall require owners of motor vehicles with a declared combined gross weight of 55,000 pounds or more to provide proof, acceptable to the department, that the federal heavy vehicle use tax imposed by section 4481 of the Internal Revenue Code of 1954 has been suspended or paid at the time of registration unless specifically exempt by the rules and regulations of the Internal Revenue Service. The department shall refuse registration of such vehicles if sufficient proof is not presented at time of registration. Acceptable proof for registration purposes is:

(a) The original or photocopy of an Internal Revenue Service (IRS) accepted schedule 1 (IRS form 2290) schedule of highway motor vehicles; or

(b) Photocopy of IRS form 2290 with schedule 1 as filed with the IRS and a photocopy of the front and back sides of the cancelled check used for the payment of taxes to the IRS.

#### NEW SECTION

WAC 308-91-130 HUNTER'S PERMIT. (1) Upon request, Washington will provide a means of temporary registration (hunter's permit) for owner-operators to move their empty vehicle or combination of vehicles from one lessee-carrier fleet, which they were a part of, to a new lessee-carrier fleet to which they will become a part of. This temporary authority will be issued without cost and be valid for ten days from the date of issue. Photocopies of the permit will not be valid.

(2) The purpose of a hunter's permit is to allow an owner-operator to move their empty (unladen) vehicle or combination of vehicles from one lessee-carrier fleet to another without the need for further registration and/or violation of general registration statutes in IRP jurisdictions.

(3) A hunter's permit issued by an IRP jurisdiction to an owner-operator, who was formerly based in such jurisdiction, will be honored in this state for operation at the unladen weight of the vehicle or combination of vehicles listed therein. If vehicles operating under authority of a hunter's permit attempt to carry any load or if the permit appears to have been tampered with, it shall be considered to be invalid and will be confiscated. Photocopies of hunter's permits are not acceptable.

#### NEW SECTION

WAC 308-91-140 VEHICLE TRANSACTION FEE. The vehicle transaction fee pursuant to RCW 46.87.130 is hereby established in the amount of three dollars.

#### NEW SECTION

WAC 308-91-150 FORM OF PAYMENT REQUIRED—DISHONORED CHECKS. (1) An original or renewal application assessment for proportional registration fees/taxes due the state of Washington shall be paid in United States funds via cash, cashier's check, certified check, or money order. All other assessments may be paid by company or personal checks unless guaranteed payment is specifically required by the department.

(2) Collect facsimile or other electronic transmission for which the requestor pays the transmission fees.

AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-060 MILEAGE AND PRORATE PERCENTAGE. (1) Vehicles developing mileage experience must travel in two or more jurisdictions during the ((mileage experience)) registration year ((which is defined as the period July 1 through June 30 of the year immediately preceding the registration year for which proportional registration is being sought)). The mileage reported must be the actual miles accumulated by only those vehicles that were part of the ((prorate)) proportionally registered fleet during the mileage experience year. If a vehicle was part of the ((prorate)) proportionally registered fleet for only a part of the experience year, then only the miles accumulated by this vehicle during the time it was a part of the fleet are to be included in the mileage experience year. If a carrier has more than one prorated fleet, a separate mileage report must be kept for each fleet.

(2) Vehicles operating only intrastate are not eligible for proportional registration and cannot be considered as part of a prorated fleet. Mileage accumulated by such vehicles cannot be included in the mileage experience year of any prorated fleet.

(3) Mileage computation.

(a) Applications containing either power units and trailing units pulled by such power units or power units only: Use miles of prorated fleet power units only.

(b) ((Applications)) Fleets containing ((power and)) trailing units ((from the same carrier with separate statements for power units and trailing units: Use only miles of prorated fleet power units for power unit statement. Use miles of all applicant's line power units, whether prorated or not, operated interstate in combination with prorated trailers for the trailer statement)) that are operated in jurisdictions in addition to those in which the power units of the fleet are operated, or trailing units of a fleet operated with motor vehicles that are not part of the fleet, shall be placed in separate fleets.

(c) Applications for trailer fleet only: Use miles of power units only, whether prorated or not, which are operated in combination with the prorated trailers.

(4) The prorated section of the department will not accept any original or renewal prorated applications which contains one or more of the following:

(a) Estimated mileage that does not realistically reflect proposed operations.

(b) Estimated mileage on renewal applications, unless operations began so late in the previous registration year that an actual mileage experience year is not yet available.

(c) Mileage data, other than estimated mileage, expressed in round-off numbers on renewal applications.

(d) Identical mileage data reported for consecutive registration years for the same fleet, except when mileage is estimated.

(5) To compute the prorated percentages, divide the miles for each jurisdiction by the total fleet miles. The results are to be computed to the fourth decimal of the percent and rounded up to the third decimal. Express the percent in two digits before the decimal and three digits after the decimal. The Washington prorated percentage established on an original or renewal application will remain in effect for all supplemental applications filed during the registration year unless adjusted by audit or under the provisions of RCW ((46.85.170)) 46.87.120.

AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-070 QUARTERLY ((TONNAGE)) LICENSING FOR PROPORTIONALLY REGISTERED VEHICLES. In order to participate in the quarterly (three months) ((tonnage)) licensing program, a Washington based carrier must initially make its desire known to the prorated section by attaching a note or letter to the original or renewal prorated application stating its desire to participate in the quarterly ((tonnage)) licensing program. Participation will then continue as long as the fleet maintains eligibility under the provisions of RCW 46.87.160, the carrier withdraws from the program or the privilege is withdrawn by the department for cause. ((Quarterly tonnage will expire at midnight on the last day of each calendar quarter—March 31, June 30, September 30, and December 31.

To maintain eligibility to purchase tonnage on a quarterly basis, the following rules must be adhered to:

~~(1) The fleet must be Washington based, contain a minimum of three power units at all times and have a Washington prorated percentage of sixty percent or more.~~

~~(2) Each power unit within the fleet must be licensed for at least 68,000 pounds of combined gross vehicle weight.~~

~~(3) Quarterly tonnage is based on the calendar quarters of each registration year and must be renewed each quarter for each power unit in the fleet which has not been permanently removed from the fleet. Removal from the fleet is accomplished by filing, with the prorated section, a prorated application supplement — Schedule "C," upon which such vehicle is listed as a deletion. The cab card prorated backing plate and validation decal issued to each vehicle being deleted must accompany the application effecting the deletion.~~

~~(4) Quarterly renewal tonnage fees must be paid prior to the beginning of the quarter for which fees are due. New identification will not be available for at least four business days after receipt of payment. No letters of authority will be issued for quarterly tonnage renewals.~~

~~Failure to comply with the above requirements will be cause for suspension and/or cancellation of the carrier's quarterly tonnage privileges. Upon cancellation of these privileges, tonnage fees for the remainder of the registration year will be immediately due and payable for all power units in the fleet.) This program pertains only to the quarterly payment of the license fee prescribed in RCW 46.16.070; it does not authorize partial payment of any other fee or tax authorized or required for payment by another statute or rule.~~

AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-080 TEMPORARY AUTHORIZATION PERMIT. Washington temporary authorization permits (TAPs) are available to carriers who have been prorated with the state of Washington for a minimum of one year; have not had their TAP or prorated privileges suspended, revoked or canceled in this state within the past three years; and who have a history of making prompt payment of fees when due and final, usually within thirty days of the billing date. These permits may be used by qualified carriers to allow immediate operation of vehicles being added to their fleet pending issuance of ((prorate license identification)) proportional registration credentials.

Carriers desiring the privilege of obtaining and using TAPs must make application in writing to the prorated section of the department and indicate their anticipated annual requirements for these permits. Upon approval of the application, the carrier may place an order for ten or more TAPs utilizing order forms to be provided by the department; payment as prescribed in RCW ((46.85.130)) 46.87.080 must accompany the application. TAPs are valid for a period of two months from the date of issue by the carrier. The following procedures govern the use and issuance of these permits:

(1) TAPs are serially numbered and must be issued by the carrier in sequential order. Carriers are accountable and liable for all TAPs purchased from the department. These permits are not transferable and may be utilized only by the carrier to whom they were issued for use with vehicles being added to their fleet or fleets. Carriers must return all unused TAPs at such time as they cancel or fail to renew their Washington prorated account; or at such time as the department withdraws, suspends, revokes or cancels their TAP and/or prorated privileges in this state. No refunds or credits will be given for TAPs that are returned to the department.

(2) TAPs may only be used for vehicles being added to a carrier's established fleet. They cannot be used to increase ((vehicle)) gross weight on a vehicle or for a vehicle that has already been listed on ((proration)) a proportional registration application Schedule "A" or ((proration)) prorated registration application supplement Schedule "C" or renewal application which has been submitted to the prorated section of the department. Only one permit may be issued for any one vehicle.

(3) TAPs must be filled out with a typewriter. All applicable blanks must be completed with requested data. If an error is made in the issue date((--or)), expiration date((--or)), gross weight((--or)), license plate number((--or)), serial/identification number blanks or in the jurisdiction/weight section, void the permit by printing the word "VOID" in large letters across the face of the permit ((and)). Then return the vehicle copy and prorated copy to the department within one week or with your next prorated application supplement, whichever is ((soonest)) sooner. If TAP is to be used for a vehicle being added to a fleet registered under the provisions of the IRP, the jurisdiction postal code abbreviation, along with the declared operating weight for such jurisdiction, must be indicated in the space provided for each jurisdiction in

be carried on that combination of vehicles for which registration fees have been or are to be paid:

~~((8))~~ "Declared gross vehicle weight" means the total unladen weight of any vehicle plus the maximum load to be carried on that vehicle for which registration fees have been or are to be paid:

~~((9))~~ (6) "Department" means the department of licensing, state of Washington.

~~((10))~~ (7) "Interstate operation" means vehicle movement between or through two or more jurisdictions.

~~((11))~~ (8) "Intrastate operation" means vehicle movement within a single jurisdiction, from one point within that jurisdiction to another point within the same jurisdiction.

~~((12))~~ (9) "Latest purchase cost or price" means the actual purchase cost or price, if reasonable, for a vehicle paid by the current owner, ~~((if reasonable))~~ including the value of any trade-in or other valuable considerations, cost of accessories and modifications but excluding taxes. Reasonable purchase cost is considered to be the fair market value of the vehicle as determined from guide books, reports or compendiums of value recognized in the automotive industry. All values are to be expressed in ~~((U.S.))~~ United States dollars.

~~((13))~~ "Lease" means a written document vesting exclusive possession, control of and responsibility for the operation of the vehicle to the lessee for a specified period of time:

~~((14))~~ "Leased vehicle" means a vehicle which is leased for a period exceeding thirty days. The rental of a vehicle, or a series of rentals of a vehicle, amounting to more than thirty days is considered to be a leased vehicle:

~~((15))~~ (10) "Reciprocity jurisdiction" means a jurisdiction with which the state of Washington extends full vehicle license reciprocity because of an agreement, arrangement, declaration or mirror reciprocity as provided for in RCW 46.85.080.

~~((16))~~ "Rental vehicle" means a vehicle which is licensable under the provisions of chapter 46.16 RCW and rented or offered for rent without driver. Rentals are for a specified period which will not exceed thirty days:))

#### AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-040 GENERAL PROVISIONS. (1) Fleet composition. Carriers may separate their commercial or apportionable vehicles into two or more fleets if such divisions are consistent with their operational practices, by reason of equipment design, or restrictions imposed by member jurisdictions.

(2) Records substantiating the latest purchase cost or price and year of purchase of each vehicle in the fleet must be retained for the period specified in RCW ~~((46-85-190))~~ 46.87.310 and made available to the department upon request.

(3) Filing and compliance dates. ~~((Prorate))~~ Proportional registration annual renewal applications must be filed with the prorate section of the department on or before December 1 of the year immediately preceding the year in which proportional registration is sought to insure timely issuance of identification for the new registration year. No temporary operating authority will be issued for renewal vehicles if the renewal application is received by the department after the above date. Washington proportional registrations expire at midnight, December 31st of each registration year; however, vehicles undergoing renewal processing and for which renewal fees and taxes have been received by the department prior to the beginning of the registration year, will have until March 1st of such registration year to display current year prorate ~~((identification))~~ credentials. During the first two months of the registration year, such vehicles will display the ~~((identification))~~ credentials issued for the previous registration year.

(4) ~~((Prorate identification))~~ Proportional registration credentials. Washington prorate ~~((identification))~~ credentials consist~~((s))~~ of a cab card, which describes the vehicle and period for which the vehicle has been proportionally registered, and a prorate backing plate upon which is affixed a current prorate validation ~~((decat))~~ tab. If the vehicle described on the cab card is Washington based, apportioned license plates, with current validation tab affixed, will be issued in lieu of the backing plate. If the vehicle is operating under the IRP, the cab card must show the jurisdiction(s) and gross weight for which the vehicle is registered. The cab card is to be carried in or on the vehicle to which it has been issued, or in the case of a trailing unit, it may be carried in or on the power unit of the combination. Photocopies or other facsimiles of the cab card are invalid. The cab card issued by the department or

the IRP base jurisdiction is the only acceptable evidence of proportional registration in this state. The prorate backing plate, if applicable, is mounted on the front of a power unit and on the rear of a trailing unit. The validation ~~((decat))~~ tab shall be affixed to the upper left-hand corner square of the prorate backing plate or the space designated on the apportioned plate if applicable.

(5) Transfer of ~~((prorate identification))~~ proportional registration credentials. Washington ~~((prorate identification))~~ proportional registration credentials cannot be transferred from one vehicle to another vehicle or from one carrier to another carrier.

(6) Surrender of ~~((prorate identification))~~ proportional registration credentials. Upon termination of proportional registration or deletion of a vehicle from a fleet, prorate ~~((identification))~~ credentials will be disposed of as follows:

(a) Vehicle based in Washington. The cab card and ~~((prorate backing))~~ apportioned plate(s) with validation ~~((decat))~~ tab attached must be returned to the prorate section of the department. If vehicle is being deleted from the fleet, ~~((identification))~~ credentials must accompany the application effecting the deletion. ~~((The end of year (December 31st) deletion of a vehicle listed on the renewal application need not be accompanied by the identification issued to such vehicle.))~~

(b) Vehicle registered under provisions of the compact and based in another jurisdiction. Only the Washington cab card is returned to the prorate section. The prorate backing plate with validation ~~((decat))~~ tab attached must be returned to the prorate unit of the base jurisdiction licensing agency. If vehicle is being deleted from the fleet, cab card must accompany the application effecting the deletion. The end of year (December 31st) deletion of a vehicle listed on the renewal application need not be accompanied by the identification issued to such vehicle.

(c) Vehicles based in IRP jurisdictions. Upon termination of proportional registration or deletion of a vehicle from a fleet, the credentials must be returned to the base jurisdiction.

#### AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-050 APPLICATIONS FOR PROPORTIONAL ~~((/RECIPROCFY))~~ REGISTRATION. Applicants desiring proportional ~~((and/or reciprocity))~~ registration in this state must make application to the prorate section of the department in the manner and upon the forms prescribed. Forms will be made available by the department. Washington based carriers desiring registration in other IRP jurisdictions must indicate on their applications the jurisdictions in which the fleet is (is to be) registered, list vehicles by gross weight groups and indicate within each gross weight group the gross weight each vehicle of the group is to be registered for in each jurisdiction listed. Incorrect or incomplete applications will be returned without action.

The application for any fleet shall bear the same applicant's name, or be identified therewith, for each jurisdiction in which proportional registration is sought for such fleet.

After an original ~~((prorate))~~ proportional registration application has been filed with this state for a fleet ~~((with this state))~~, vehicles can only be added ~~((;))~~ or deleted, or changes made in registered/combined gross vehicle weight ~~((made))~~, by filing a proration application supplement - Schedule "C" in the manner prescribed.

In circumstances where immediate operation of vehicles being added to the fleet is essential, a temporary letter of authority may be requested by the applicant for such vehicles, pending processing of the application and issuance of prorate ~~((identification))~~ credentials by the department, provided that:

(1) Licensing fees and taxes have been paid in full for the fleet's original Washington ~~((prorate))~~ proportional registration application; and

(2) The ~~((proration))~~ proportional registration renewal application or supplement - Schedule "C" adding such vehicles to the ~~((prorate))~~ proportionally registered fleet is acceptable and on file in the prorate section of the department; and

(3) The applicant's ~~((prorate))~~ proportional registration account is considered to be in good standing and on active status.

The temporary letter of authority will permit operation of the vehicles listed thereon, in jurisdictions and at gross weights indicated, for a period of time to be determined by the department but not longer than two months from the effective date of the letter. The temporary letter of authority will be issued by one of the following means as requested by the applicant:

(1) Mail;

**WSR 88-03-067**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed January 20, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the state of Washington Department of Licensing intends to adopt, amend, or repeal rules concerning vehicle registration reciprocity and proration, chapter 308-91 WAC, amending WAC 308-91-010, 308-91-030, 308-91-040, 308-91-050, 308-91-060, 308-91-070, 308-91-080, 308-91-090; adding new sections WAC 308-91-120, 308-91-130, 308-91-140, 308-91-150, 308-91-160, 308-91-170; and repealing WAC 308-91-020, 308-91-100 and 308-91-110;

that the agency will at 9:00 a.m., Wednesday, February 24, 1988, in the Second Floor Conference Room, Highways-Licenses Building, 12th and Franklin, 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 46.01.110 and 46.87.010(2).

The specific statute these rules are intended to implement is chapters 46.87 and 46.85 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 24, 1988.

Dated: January 20, 1988

By: H. George Ides, Administrator  
 Prorate and Fuel Tax Control

#### STATEMENT OF PURPOSE

Name of Agency: Washington State Department of Licensing.

Purpose: To enable the Department of Licensing to implement and administer chapter 46.87 RCW and the vehicle registration reciprocity provisions of chapter 46.85 RCW.

Statutory Authority: RCW 46.01.110 and 46.87.010(2).

Summary of the Rules: Vehicle registration reciprocity and proration, chapter 308-91 WAC; WAC 308-91-010 Proration and reciprocity proration; 308-91-030 Definitions; 308-91-040 General provisions; 308-91-050 Applications for proportional registration; 308-91-060 Mileage and prorate percentage; 308-91-070 Quarterly licensing for proportionally registered vehicles; 308-91-080 Temporary authorization permit; 308-91-090 Leased and rented vehicles; 308-91-120 Federal heavy vehicle use tax; 308-91-130 Hunter's permit; 308-91-140 Vehicle transaction fee; 308-91-150 Form of payment required—Dishonored checks; 308-91-160 Reciprocity for combination of vehicles; 308-91-170 Washington fee/tax receipt; 308-91-020 Instructions, procedure and declarations; 308-91-100 Operation of rental vehicles; and 308-91-110 Utility trailer rentals—Certified average registration plan.

Purpose and Reason Proposed: To enable the Department of Licensing to implement and administer chapter 46.87 RCW and the vehicle reciprocity provisions of

chapter 46.85 RCW to enable the department to better promote and protect public health, safety and welfare.

Responsible Department Personnel: In addition to the director of the Department of Licensing, the following individuals have knowledge of and responsibility for drafting, implementing, enforcing and repealing these rules: David T. Kirk, Assistant Director, Vehicle Services, Second Floor, Highways-Licenses Building, 12th and Franklin, Olympia, Washington 98504, phone (206) 753-6914 comm or 234-6914 scan; H. George Ides, Administrator, Prorate and Fuel Tax Control, Second Floor, Highways-Licenses Building, 12th and Franklin, Olympia, Washington 98504, phone (206) 753-4565 comm or 234-4565 scan; and Paul Downey, Assistant Administrator, Prorate and Fuel Tax Control, Second Floor, Highways-Licenses Building, 12th and Franklin, Olympia, Washington 98504, phone (206) 753-6993 comm or 234-6993 scan.

Proponents: State of Washington Department of Licensing.

Federal Law or Federal or State Court Requirements: Not necessitated as the result of federal or state court requirements.

Small Business Economic Impact Statement: Not required for this statement.

#### AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-010 PRORATION AND RECIPROCITY AGREEMENTS. The state of Washington is a member of the uniform vehicle registration proration and reciprocity agreement which is hereafter referred to as the "compact" and the international registration plan which is hereafter referred to as the "IRP." ~~((This))~~ These agreements provide(s) for the proportional registration of fleets of commercial or apportioned vehicles operated in two or more jurisdictions that are members of the compact and/or the IRP. ~~((Other member jurisdictions of the compact are: Alaska, Alberta, Arizona, British Columbia, California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah and Wyoming.~~

~~The state of Washington has bilateral agreements, which are similar to the compact, with the states of Oklahoma, Texas and Wisconsin.))~~ Member jurisdictions of the compact who are not also members of the IRP are Alaska, British Columbia, Nevada, and New Mexico.

#### AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-030 DEFINITIONS. The definitions set forth below, and in ~~((this section.))~~ chapters 46.04 ~~((and)),~~ 46.85, and 46.87 RCW, apply throughout this chapter.

(1) "Backing plate" means a license plate which is designed for displaying validation decals, stickers or tabs issued by jurisdictions of the compact in which the vehicle displaying the plate is proportionally registered.

(2) "Base jurisdiction", under provisions of the compact, means the jurisdiction in which the owner has "properly registered" vehicle(s) of a fleet as defined in RCW ~~((46.85.020(4)))~~ 46.87.020(14).

(3) "Base plate" means the vehicle license plate assigned to a vehicle by the base jurisdiction. Under the provisions of the IRP, this would be an "apportioned plate."

(4) ~~((<sup>1</sup>Cab card~~) means the certificate of license registration issued for a proportionally or reciprocity registered vehicle.

~~((5)))~~ "Compact" means the uniform vehicle registration proration and reciprocity agreement.

~~((6)))~~ (5) "Combination of vehicles" means a power unit used in combination with trailer(s) ~~((and/or)),~~ semi-trailer(s) and/or convert-er gear.

~~((7))~~ "Declared combined gross vehicle weight" means the total unladen weight of any combination of vehicles plus the maximum load to

The specific statute these rules are intended to implement is RCW 18.64.005(4).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 24, 1988.

Dated: January 20, 1988  
 By: John H. Keith  
 Assistant Attorney General  
 Board Counsel

**STATEMENT OF PURPOSE**

Name of Agency: Washington State Board of Pharmacy.

Statutory Authority: RCW 18.64.005.

Summary, Purpose of Rule and Reason Proposed: WAC 360-18-020 Fees, would be amended to add a facility inspection fee to cover special facility inspections when a licensed facility is relocated; and 360-18-025 Fee payment, would establish the conditions when facility inspection fees are to be paid, when a change in ownership requires a new original license fee and also provide that fees are not prorated.

Responsible Agency Personnel: The board and the executive secretary of the board have responsibility for drafting, implementing and enforcing these rules. The executive secretary is Donald H. Williams, 319 East 7th Avenue, W.E.A. Building, FF-21, Olympia, Washington 98504, phone (206) 753-6834.

Proponents of the Proposed Rule: Washington State Board of Pharmacy.

Federal Law or State or Federal Court Requirements: Not necessitated as a result of federal law or state or federal court action.

Small Business Economic Impact Statement: Not necessary since these rules do not impact small businesses as that term was defined by RCW 43.31.920.

AMENDATORY SECTION (Amending Order 207, filed 9/2/87)

WAC 360-18-020 FEES. The following fees shall be charged by the board of pharmacy:

(a) PHARMACY LOCATION & CSA	
Original pharmacy fee	\$165.00
Original pharmacy assistant utilization fee	35.00
Renewal pharmacy fee	85.00
Renewal pharmacy assistant utilization fee	35.00
Penalty pharmacy fee	165.00
(b) VENDOR	
Original fee	40.00
Renewal fee	40.00
Penalty fee	40.00
(c) PHARMACIST	
Exam fee (full exam)	125.00
Reexamination fee (jurisprudence portion)	25.00
Original license fee	75.00
Renewal fee, active and inactive license	60.00
Penalty fee	60.00
Reciprocity fee	250.00
Certification of license status to other states	10.00
(d) SHOPKEEPER	
(i) SHOPKEEPER - sixteen or more drugs	
Original fee	10.00
Renewal fee	10.00
Penalty fee	5.00

(ii) SHOPKEEPER - with differential hours	
Original fee	10.00
Renewal fee	10.00
Penalty fee	5.00
(e) DRUG MANUFACTURER	
Original fee	250.00
Renewal fee	250.00
Penalty fee	250.00
(f) DRUG WHOLESALER - full line	
Original fee	250.00
Renewal fee	250.00
Penalty fee	250.00
(g) DRUG WHOLESALER - OTC only	
Original fee	150.00
Renewal fee	150.00
Penalty fee	150.00
(h) DRUG WHOLESALER - export	
Original fee	250.00
Renewal fee	250.00
Penalty	250.00
(i) PHARMACY ASSISTANT - Level "A"	
Original fee	30.00
Renewal fee	20.00
(j) PHARMACY INTERN	
Original registration fee	15.00
Renewal registration fee	15.00
(k) CONTROLLED SUBSTANCES ACT (CSA) REGISTRATIONS	
Dispensing registration fee (i.e. pharmacies)	35.00
Dispensing renewal fee (i.e. pharmacies)	30.00
Distributors registration fee (i.e. wholesalers)	50.00
Distributors renewal fee (i.e. wholesalers)	50.00
Manufacturers registration fee	50.00
Manufacturers renewal fee	50.00
Physician assistant registration fee	15.00
Physician assistant renewal fee	10.00
ARNP with prescriptive authorization registration fee	15.00
ARNP with prescriptive authorization renewal fee	10.00
Sodium pentobarbital for animal euthanization registration fee	20.00
Sodium pentobarbital for animal euthanization renewal fee	15.00
(l) LEGEND DRUG SAMPLE - distributor registration fees	
Original fee	125.00
Renewal fee	85.00
(m) POISON MANUFACTURER/SELLER - license fees	
Original fee	20.00
Renewal fee	20.00
(n) Facility inspection fee	<u>100.00</u>

NEW SECTION

WAC 360-18-025 FEE PAYMENT. (1) A licensed pharmacist, wholesaler, or manufacturer shall pay a facility inspection fee in lieu of the original license fee when there is only a change of facility location within the premises identified by the license address. Any change of location to a different address shall require a new application and payment of the original license fee.

(2) An original license fee shall be paid whenever there is any change in ownership, including change in business structure or organizational structure such as a change from sole proprietorship to a corporation, or a change of more than fifty percent ownership in a corporation.

(3) All fees are charged on an annual basis and will not be prorated.

Tucannon River – State Highway 261 Bridge.  
 Washougal River – A straight line from the Crown Zellerbach pumphouse southeasterly across the Washougal River to the east end of the Highway 14 Bridge near the upper end of Lady Island.  
 White Salmon River – Highway 14 Bridge.  
 Little White Salmon River – At boundary markers on river bank downstream from the federal salmon hatchery.  
 Willapa River – Highway 101 Bridge.  
 Yakima River – Highway 240 Bridge.

**AMENDATORY SECTION** (Amending Order 87-16, filed 4/21/87)

WAC 220-56-115 ANGLING—LAWFUL AND UNLAWFUL ACTS. (1) It is unlawful for any person to use more than one line with one lure at any one time while angling for food fish for personal use except:

(a) It is lawful to use two natural baits per line while angling in freshwater.

(b) It is lawful to use two lures per line while angling in marine waters for food fish other than salmon or baitfish.

(c) A second line using baitfish jigger gear is lawful while angling in the Strait of Juan de Fuca east of the mouth of the Sekiu river, Georgia Strait, the San Juan Islands, and Puget Sound.

(2) It shall be lawful for any person to take, fish for or possess food fish for personal use by any means other than angling with a line attached to a pole held in hand while landing the fish or with a hand-operated line without rod or reel not utilizing power to retract the line in either case, except as provided in subsections (3) (~~and~~), (4), and (5) of this section.

(3) It shall be lawful, while angling for food fish (~~in saltwater~~) from shore, piers, jetties or docks, for an individual to:

(a) Leave the pole in a pole holder while playing or landing the fish. The pole holder may be affixed to a bench, pier railing, wheelchair or other solid object.

(b) Use a power-operated reel attached to a pole.

~~((All other provisions of this section shall apply.))~~

(4) It is lawful, while in possession of a disability power reel permit, to use a power operated reel while angling for food fish from a vessel, and leave the pole in a pole holder while playing or landing the fish. A disability power reel permit for boat angling will be issued by the department's licensing division to any person who is physically handicapped to the extent the person is unable to engage in angling using a hand operated reel. For purposes of this section, physically handicapped means an obvious permanent disability involving the loss or incapacity of one hand. The disability power reel permit must be with the angler while the power operated reel is being used and must be presented to authorized officials of the department upon request.

(5) It shall be unlawful to take, fish for or possess salmon taken for personal use with hand lines (lines not attached to a handheld pole) in those waters west of the mouth of the Sekiu River, Pacific Ocean, Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10, Grays Harbor, and Willapa Bay.

~~((5))~~ (6) It shall be unlawful for any person while angling for food fish to fail to keep his angling gear under his direct and immediate physical control.

**AMENDATORY SECTION** (Amending Order 87-19, filed 3/23/87)

WAC 220-56-180 BAG LIMIT CODES. (1) Code A: In waters having this code designation, the bag limit in any one day is six salmon not less than 10 inches in length, not more than two of these six salmon may be any combination of the following:

Chinook over 24 inches in length

Coho over 20 inches in length

Pink, chum or sockeye over 10 inches in length.

(2) Code C: In waters having this code designation, the bag limit in any one day is six chinook and coho salmon in the aggregate not less than 10 inches in length or more than the following:

24 inches in length for chinook; 20 inches in length for coho.

(3) Code D: In waters having this code designation, the bag limit in any one day is six salmon not less than 10 inches in length not more than two of which may be sockeye salmon; all chinook salmon greater than 24 inches in length and all coho salmon greater than 20 inches in length must be released.

(4) Code F: In waters having this code designation, the bag limit in any one day is two salmon provided that:

(a) Chinook salmon must be not less than 24 inches in length, coho salmon must be not less than 16 inches, but there is no minimum size on other salmon.

(b) During the period April 15 through June 15 in waters of the Strait of Juan de Fuca between the mouth of the Sekiu River and a line from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island, it is unlawful to take and retain chinook salmon greater than 30 inches in length.

(5) Code H: In waters having this code designation, the bag limit in any one day is three salmon provided that:

(a) Chinook salmon must be not less than 22 inches in length, but there is no minimum size for other salmon.

(b) During the period April 15 through June 15 in ~~((Punch))~~ Catch Record Card Areas 5, 6, and 7, it is unlawful to retain or possess chinook salmon greater than 30 inches in length.

(c) In contiguous marine waters of Puget Sound east of the mouth of the Sekiu River, no more than two of the three salmon daily bag limit may be chinook.

– or –

(c) In contiguous marine waters of Puget Sound east of the mouth of the Sekiu River, no more than two of the three salmon daily bag limit may be chinook, except:

(i) During the period ~~((March 27))~~ April 1 through April ((25)) 30 it is unlawful to retain or possess chinook salmon taken for personal use while fishing in ~~((Punch))~~ Catch Record Card Areas 9, 10, 11, or 13.

– or –

(i) During the period April 1 through April 30 it is unlawful to retain or possess salmon greater than 27 inches in length taken for personal use while fishing in Catch Record Card Areas 9, 10, 11, or 13.

– or –

(i) During the period April 1 through April 30 it is unlawful to retain or possess salmon greater than 30 inches in length taken for personal use while fishing in Catch Record Card Areas 9, 10, 11, or 13.

(ii) The daily bag limit in ~~((Punch))~~ Catch Record Card Area 12 is three salmon of any species.

(6) Code I: In waters having this code designation, the bag limit, size restrictions, and opening and closing dates are the same as those for gamefish as regulated under Title 77 RCW by the Washington ~~((game))~~ wildlife commission. Salmon angling catch record card is not required, but a gamefish license is required to take, fish for or possess gamefish.

(7) The possession limit in all waters regulated under Bag Limits A, C, D, F, H, and special bag limits shall not exceed the equivalent of two daily bag limits of fresh salmon, and additional salmon may be possessed in frozen or processed form. The possession limit in waters regulated under Bag Limit I is the same as the possession limit for gamefish as regulated under Title 77 RCW by the Washington ~~((game))~~ wildlife commission.

**AMENDATORY SECTION** (Amending Order 85-111, filed 5/27/85)

WAC 220-56-185 MARINE AREA CODES. The term "marine area code numbers" is defined as the catch area for the salmon catch record card. The following is a list of the catch areas:

(1) Area 1 (Ilwaco): West of the ~~((McGler-Astoria Bridge))~~ Buoy 10 Line – north to Leadbetter Point.

(2)(a) Area 2 (Westport-Ocean Shores): From Leadbetter Point north to the Queets River excluding waters of Willapa Bay and Grays Harbor.

(b) Area 2-1: Willapa Bay.

(c) Area 2-2: Grays Harbor.

(3) Area 3 (La Push): From the Queets River north to Cape Alava.

(4) Area 4 (Neah Bay): From Cape Alava north and inside Juan de Fuca Strait to the Sekiu River.

(5) Area 5 (Sekiu and Pillar Point): From mouth of Sekiu River east to Low Point, mouth of the Lyre River.

(6) Area 6 (East Juan de Fuca Strait): From Low Point east to the Partridge Point-Point Wilson line north to the line from Trial Island (near Victoria, B.C.) – Navigation Buoy BW "R" – Smith Island – the most northeasterly of the Lawson Reef lighted buoys (RBI QK Fl Bell) – Northwest Island – the Initiative 77 marker on Fidalgo Island.

(7) Area 7 (San Juan Islands): All marine waters north of the line described under Area 6 to the United States-Canadian boundary.

(8)(a) Area 8-1 (Deception Pass(;) and Hope ((and Camano)) Island((s))): East of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island ((east)) through Deception Pass, ((including all waters east of Whidbey Island to the Possession Point - Shipwreck Line)) south of the Burlington Northern Railroad Bridge at the north end of Swinomish Slough, north of the Highway 532 Bridge between Camano Island and the mainland, and westerly of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light #2 on Camano Island (Fl red 4 sec.).

(b) Area 8-2 (Port Susan and Port Gardner): East of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light #2 on Camano Island (Fl red 4 sec.) and north of a line from the south tip of Possession Point 110 degrees true to a shipwreck on the opposite shore.

(9) Area 9 (Admiralty Inlet): All waters inside and south of the Partridge Point-Wilson Line and a line projected from the southerly tip of Possession Point 110 degrees true to a shipwreck on the opposite shore and northerly of the Hood Canal Bridge and the Apple Cove Point-Edwards Point Line.

(10) Area 10 (Seattle-Bremerton): From the Apple Cove Point-Edwards Point Line to a line projected true east-west through the northern tip of Vashon Island.

(11) Area 11 (Tacoma-Vashon Island): From the northern tip of Vashon Island to the Tacoma Narrows Bridge.

(12) Area 12 (Hood Canal): All contiguous waters south of the Hood Canal Bridge and adjacent waters north of the Hood Canal Bridge when fishing from the pontoon beneath the bridge.

(13) Area 13 (South Puget Sound): All contiguous waters south of the Tacoma Narrows Bridge.

#### AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-56-195 CLOSED AREAS—SALTWATER SALMON ANGLING. The following areas shall be closed to salmon angling during the times indicated:

(1) Skagit Bay: Those waters lying easterly of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, northerly of a line projected from Polnell Point to Rocky Point, northerly of the state Highway 532 Bridge between Camano Island and the mainland and south of ((the Burlington Northern Railroad Bridge at the north)) a line between the south end of McGlenn Island and the light at the south end of Fidalgo Island (Qk Fl) at the south end of Swinomish Slough shall be closed to salmon angling April 15 through June 30.

(2) Bellingham Bay: Those waters of ((Portage Bay and)) Bellingham, Samish and Padilla Bays ((north of a line from Point Francis to Post Point)) southerly of a line projected from the most westerly point of Gooseberry Point to Sandy Point, easterly of a line from Sandy Point to Point Migley thence along the eastern shoreline of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island thence to Clark Point on Guemes Island following the shoreline to Southeast Point on Guemes Island thence to March Point on Fidalgo Island and north of the Burlington Railroad Bridges at the north end of Swinomish Slough shall be closed to salmon angling April 15 through July 15.

(3) Carr Inlet:

(a) Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek are closed to salmon angling March 15 through August 31.

(b) Those waters north of a line from Green Point to Penrose Point are closed to salmon angling from April 1 through August 15.

(4) Quilcene Bay: Those waters west and north of a line projected true north from Point Whitney to the Bolton Peninsula are closed to salmon angling April ((+5)) 1 through June 30.

- or -

(4) Quilcene Bay: Those waters west and north of a line from Quatsop Point to Misery Point are closed to salmon angling from April 1 through June 30.

(5) Dungeness Bay: Those waters westerly of a line projected 155 degrees true from Dungeness Spit Light to Kulo Kala Point are closed to salmon angling April 15 through June 30.

(6) Samish Bay: Those waters southerly of a line projected true east from Fish Point are closed to salmon angling August 1 through October 14.

(7) Elliott Bay:

(a) Waters easterly of a line projected 187 degrees true from Pier 91 through the Duwamish Head Light to Duwamish Head are closed to salmon angling August 1 through September 9.

(b) Waters easterly and southerly of a line running approximately 72 degrees true from the Armeni Public Boat Ramp in West Seattle to the Columbia Sea-First Center in downtown Seattle are closed to salmon angling September 10 through September 11.

(8) Port Susan: Those waters of Port Susan north of a line from Camano Head to Hermosa Point are closed to salmon angling April 15 through September 30.

#### AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

WAC 220-56-199 CLOSED AREAS—CHINOOK SALMON ANGLING. It is unlawful to take or possess chinook salmon ((during the period June 16 through August 31 in those waters of Port Susan lying northerly of a line projected from Camano Head to Hermosa Point)) from those waters of Carr Inlet northerly of a line running 273 degrees true from the northernmost point of land on the south side of the entrance to Horsehead Bay to a marker on the Longbranch Peninsula from April 1 through August 15.

#### AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-56-205 HOOK REGULATIONS—FRESHWATER SALMON ANGLING. It is unlawful to fish for or to possess salmon taken for personal use from freshwater unless the hooks used meet the requirements of this section:

(1) Nonbuoyant lures are defined as lures that do not have enough buoyancy to float in freshwater. Nonbuoyant lures other than natural bait lures must have no more than one single hook and that hook must not exceed 3/4 inch from point to shank. Nonbuoyant natural bait lures may have up to two single hooks not exceeding 3/4 inch from point to shank.

(2) Buoyant lures are defined as lures that have enough buoyancy to float in freshwater and may have any number of hooks.

(3) No leads, weights or sinkers may be attached below ((the lure)) or less than 12 inches above ((the)) a nonbuoyant lure.

((4) It is unlawful to take, fish for or possess salmon in any freshwater areas of the state with nonbuoyant lures unless they meet the requirements for nonbuoyant lures as defined in subsection (1) of this section. This subsection does not apply to Lake Washington, that portion of the Columbia River below Bonneville Dam, or that portion of the Skagit River below the mouth of Gilligan Creek:)) All hooks must be attached within three inches of the bait or lure.

#### AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

WAC 220-56-235 POSSESSION LIMITS—BOTTOMFISH. It is unlawful, unless otherwise provided, for any one person to take in any one day more than the following quantities of bottomfish for personal use. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh bottomfish. Additional bottomfish may be possessed in a frozen or processed form.

(1) Coastal (Punch Card Areas 1 through 4):

(a) Lingcod:

(i) 3 fish in Punch Card Areas 1 through 3 and Area 4 west of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point;

(ii) 2 fish in Punch Card Area 4 east of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point.

(b) Rockfish - 15 fish.

(c) All other species - no limit.

(2) Puget Sound:

(a) East of the mouth of the Sekiu River and west and north of a line from Point Partridge to Point Wilson and west of a line between west point on Whidbey Island and Reservation Head on Fidalgo Island. (Punch Card Areas 5 through 7) - 15 fish in the aggregate of all species of bottomfish, no more than 2 of which may be lingcod and no more than 10 of which may be rockfish or surfperch. It is unlawful to possess lingcod less than 22 inches in length taken by angling. The daily bag limit taken by spear fishing may include no more than one lingcod in the 15 fish aggregate, with no size restriction.

(b) All contiguous marine waters east and south of a line from Point Partridge to Point Wilson and east of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island (Punch Card Areas 8 through 13) - 15 fish in the aggregate of all species of

bottomfish, no more than 1 of which may be lingcod, ~~((and))~~ no more than 5 of which may be rockfish and no more than 10 of which may be surfperch. It is unlawful to possess lingcod less than 22 inches in length taken by angling. There is no size restriction on the one lingcod allowed in the daily bag limit if taken by spear fishing.

AMENDATORY SECTION (Amending Order 85-39, filed 5/1/85)

WAC 220-56-255 HALIBUT—SEASON. It is unlawful to fish for or possess halibut taken for personal use except from ~~((February))~~:

(1) April 1 through ~~((December 31))~~ September 30 in Catch Record Card Areas 1, 2, and 3.

(2) May 1 through June 30 in those waters of Catch Record Card Area 4 west of the Bonilla-Tatoosh line.

(3) March 1 through June 15 in those waters of Catch Record Card Area 4 east of the Bonilla-Tatoosh line and Catch Record Card Areas 5 through 13.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-265 BAITFISH—LAWFUL GEAR. It shall be lawful to take, fish for and possess herring, candlefish, pilchards, anchovies and smelt taken for personal use with rake, hand dip net gear not exceeding 36 inches across the bag frame and baitfish jigger gear having not more than three treble or nine single hooks. Baitfish jigger gear hooks may not have a gap between the shank and the point exceeding 1/4 inch. Baitfish jigger gear as defined herein is considered as one lure.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-56-310 SHELLFISH—DAILY BAG LIMITS. It is unlawful for any one person to take in any one day for personal use more than the following quantities and sizes of shellfish:

(1) Cockles, borers and clams in the shell, ~~((except))~~ other than razor clams, geoduck clams and horse clams, 40 clams in the aggregate, except:

(a) ~~((Hood Canal south of a line projected from Tala Point to Four-weather Bluff - 60 clams or 10 pounds in the shell in the aggregate, whichever occurs first.~~

(b) ~~Puget Sound south and west of the Tacoma Narrows Bridge. This also includes Carr and Case Inlets and Pickering Passage - 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first.~~

(c) ~~All portions of Puget Sound except those described in (a) and (b) of this subsection - Bag limit January 1 - May 31: 60 clams or 10 pounds in the shell in the aggregate, whichever occurs first. Bag limit June 1 - December 31: 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first.~~

(d) ~~In~~ Skagit Bay, east of a line projected from Browns Point to Swinomish Slough entrance ~~((;))~~ - diggers may additionally retain up to 20 pounds of eastern softshell clams in the shell ~~((in addition to the limit set in (c) of this subsection)).~~

~~((e))~~ Willapa Bay - clams and borers five pounds in the shell in the aggregate.

~~((f))~~ (b) Willapa Bay - diggers may additionally retain up to twenty-four cockles.

~~((g))~~ In English Camp tidelands the bag limit shall be as described in (c) of this subsection plus an additional 10 pounds of clams in the shell:

(h) ~~Grays Harbor - 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first:))~~

(2) Razor clams: 15 clams.

(3) Geoduck clams: 3 clams.

(4) Horse clams: First 7 clams taken.

(5) Oysters: 18 oysters.

(6) Rock scallops: 12 scallops.

(7) Sea scallops: 12 scallops (over 4 inches).

(8) Common or pink scallops: 20 pounds or 10 quarts in the shell.

(9) Shrimp: 10 pounds, whole in the shell.

(10) Octopus: 2 octopus.

(11) Abalone (Kamschatka): 5 abalone, minimum size limit 3-1/2 inches measured in horizontal line across the longest portion of the shell.

(12) Crawfish: 10 pounds in the shell.

(13) Squid: 10 pounds or 5 quarts.

(14) Sea cucumbers: 25 sea cucumbers.

(15) Red sea urchins: 18 sea urchins.

(16) Purple sea urchins: 18 sea urchins.

(17) Green sea urchins: 36 sea urchins.

(18) Dungeness crabs: 6 male crabs.

(19) Red rock crabs: 12 crabs.

(20) Blue mussels and sea mussels: 10 pounds in the shell.

(21) Goose barnacles: 10 pounds of whole barnacles or 5 pounds of barnacle stalks.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-56-335 CRAB—UNLAWFUL ACTS. (1) It is unlawful for any person to take or possess for personal use any female Dungeness crabs.

(2) It is unlawful to take or possess any male Dungeness crabs which measure less than 6 1/4 inches taken for personal use ~~((from the waters of the Pacific Ocean, Grays Harbor, Willapa Bay, the waters of the Columbia River, or all waters within Punch Card Area 7.~~

~~((3))~~ It is unlawful to take or possess any male Dungeness crab which measure less than ~~((6 1/4 inches))~~ except for those waters of Hood Canal south of the Hood Canal Floating Bridge, when the minimum size is 6 inches ~~((taken for personal use from the waters of Puget Sound outside of Punch Card Area 7)).~~

~~((4))~~ (3) All measurement shall be made horizontally across the back (caliper measurement) immediately in front of the points.

~~((5))~~ (4) It is unlawful to possess in the field any crab or parts thereof without retaining the back shell.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-56-350 HARDSHELLS, COCKLES, MUSSELS—AREAS AND SEASONS. (1) It is lawful to take, dig for and possess clams, cockles, borers and mussels taken for personal use on Puget Sound the entire year except that it is unlawful to take, dig for or possess such shellfish taken for personal use:

(a) West of the tip of Dungeness Spit from April 1 through October 31.

(b) Garrison Bay: All state-owned and federally-owned tidelands of Guss Island and those tidelands south of a boundary marker located approximately 1,010 yards southerly of Bell Point are closed to clam digging the entire year. Those tidelands north of the above-described boundary marker are open to harvest the entire year.

(c) Saltwater State Park—All state-owned tidelands at Saltwater State Park shall be closed to the personal use harvest of all species of clams from June 16 through December 31.

(d) Twanoh State Park—All state-owned tidelands at Twanoh State Park shall be closed to the personal use harvest of all species of clams from June 16 through December 31.

(e) ~~((Point Whitney—All publicly owned tidelands at Point Whitney lying north of point located at the base of the United States Navy Dock to a point 250 yards west (280°) are closed from July 15 through December 31.~~

~~((f))~~ Eagle Creek—All publicly owned tidelands at Eagle Creek lying east of a point located at the mouth of Eagle Creek where it passes beneath Highway 101 to a point 250 yards southwest (228°) are closed from January 1 through June 30.

(g) Kayak Point County Park—All county-owned tidelands at Kayak Point County Park are closed the entire year except county tidelands north of the county fishing pier are open April 1 to June 15, 1988 and county tidelands south of the pier are open January 1 to June 15, 1989.

~~((h))~~ (f) State oyster reserves are closed to clam digging the entire year.

(2) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year, except from state oyster reserves, which are closed to clam digging the entire year.

(3) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams taken for personal use from the Pacific Ocean beaches from November 1 through March 31.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-355 CLAMS—UNLAWFUL ACTS. (1) It shall be unlawful for any person digging hardshell clams for personal use to fail to fill in holes created during the digging operation. Beach terrain

must be returned to approximately its original condition by clam diggers before leaving the scene. Broken clams must be retained as part of the bag limit.

(2) It shall be unlawful to maim, injure or attempt to capture a geoduck by thrusting any instrument through its siphon or to possess only the siphon or neck portion of a geoduck.

(3) It is unlawful to possess Manilla, native, or butter clams taken for personal use which measure less than 1-1/2 inches across the longest dimension of the shell, except prior to culling it is lawful to possess smaller clams on the intertidal beach where the clams were taken. All undersized clams must be returned to the beach at the same tide height where taken.

#### AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-56-380 OYSTERS—AREAS AND SEASONS. (1) It is unlawful to take oysters for any purpose from state oyster reserves without written permission of the director of fisheries.

(2) It is unlawful to take or possess oysters for personal use from public tidelands from July 15 through September 15 except that it is lawful to take and possess oysters for personal use from the tidelands of ~~((Dosewallips and))~~ Belfair State Park~~((s))~~ from January 1 through December 31.

(3) It is unlawful to take or possess oysters for personal use from federally-owned tidelands at Seal Rock Forest Service campground except during the period May 16 through July 14.

(4) It is unlawful to take or possess oysters for personal use from tidelands of Kitsap Memorial State Park except during the period May 16 through June 15.

(5) It is unlawful to take or possess oysters for personal use from tidelands at Scenic Beach State Park ~~((except during the period March 15 through May 15))~~ through April 14, 1989.

(6) It is unlawful to take or possess oysters for personal use from department of fisheries tidelands at Hoodport Salmon Hatchery except during the period May 16 through July 14.

(7) It is unlawful to take or possess oysters for personal use from state tidelands at Bywater Bay except during the period May 16 through July 14.

(8) It is unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

#### AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-130 BOGACHIEL RIVER. (1) Bag Limit C – July 1 through August 31: Downstream from the Highway 101 Bridge.

(2) Bag Limit A – September 1 through November 30: Downstream from the Highway 101 Bridge. ~~((All coho salmon greater than 20 inches in length must be released immediately.))~~

#### AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-135 CALAWAH RIVER. (1) Bag Limit C – July 1 through August 31: Downstream from the Highway 101 Bridge.

(2) Bag Limit A – September 1 through November 30: Downstream from the Highway 101 Bridge. ~~((except coho salmon greater than 20 inches in length must be released immediately.))~~

#### AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-160 COLUMBIA RIVER. (1) Bag Limit D – June 1 through December 31: Downstream from Chief Joseph Dam to Rocky Reach Dam. The following are closed waters:

(a) Chief Joseph Dam – waters between the upstream line of Chief Joseph Dam to a line perpendicular to the thread of the stream from a point 400 feet downstream from the west end of the tailrace deck.

(b) Wells Dam – waters between the upstream line of Wells Dam and a point 400 feet below the spawning channel discharge stream.

(2) Rocky Reach Dam to Priest Rapids Dam: Bag Limit D – June 1 through September 15; Bag Limit A September 16 through December 31. The following are closed waters: Rocky Reach, Rock Island and Wanapum Dams – waters between the upstream lines of these dams and points 400 feet downstream.

(3) Priest Rapids Dam to the Vernita Bridge: Bag Limit D – June 1 through August 15; Bag Limit A – August 16 through October 31; Bag Limit C – November 1 through December 31. The following are closed waters:

(a) Priest Rapids Dam – waters between the upstream line of Priest Rapids Dam and a point 400 feet downstream.

(b) Jackson (Moran) Creek – waters out to midstream between markers located approximately 500 feet both upstream and downstream of the mouth.

(4) Vernita Bridge to old Hanford townsite wooden power line towers; Bag Limit D – June 16 through August 15; Bag Limit A – August 16 through October 15.

(5) Old Hanford townsite wooden power line towers to Highway ~~((+2))~~ 395 Bridge ~~((at))~~ connecting Pasco and Kennewick: Bag Limit D – June 1 through August 15 ~~((except when fishing from the east bank only in that portion from WDF boundary marker located approximately 1/2 mile upstream from Ringold hatchery rearing pond outlet downstream to a WDF boundary marker located approximately 1/4 mile downstream of Ringold wasteway outlet where the bag limit is A from April 1 through July 31))~~; Bag Limit A – August 16 through December 31.

(6) Highway ~~((+2))~~ 395 Bridge ~~((at))~~ connecting Pasco and Kennewick to the Interstate 5 Bridge: Bag Limit A – January 1 through March 15; Bag Limit C – March 16 through March 31; Bag Limit D – June 16 through July 31; Bag Limit A – August 1 through December 31.

The following waters are closed to fishing for food fish at all times:

(a) McNary Dam – waters between the upstream line of McNary Dam and a line across the river from the red and white marker on the Oregon shore to the downstream end of the wingwall of the boat lock near the Washington shore.

(b) John Day Dam – waters between the upstream line of John Day Dam and markers approximately 3,000 feet downstream, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(c) The Dalles Dam – waters between the upstream line of the Dalles Dam and the upstream side of the Interstate 197 Bridge, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(d) Spring Creek – waters within 1/4 mile of the U.S. Fish and Wildlife Service Hatchery grounds between posted boundary markers located 1/4 mile on either side of the fish ladder entrance.

(e) Bonneville Dam – waters between the upstream line of Bonneville Dam and a point 600 feet below the fish ladder at the new Bonneville Dam powerhouse.

(7) Interstate 5 Bridge to the Megler-Astoria Bridge: Bag Limit A – January 1 through March 31; Bag Limit D – May 16 through July 31; Bag Limit A – August 1 through December 31. During the month of September, it is unlawful to fish for or possess salmon taken for personal use in those waters of the Columbia River extending to midstream between a line projected perpendicular to the stream flow from Abernathy Point Light to a line projected perpendicular to the stream flow from a boundary marker east of the mouth of Abernathy Creek.

(8) Megler-Astoria Bridge to the Buoy 10 Line: Bag Limit A – August 16 through March 31, except that during the period August 16 through September 30 size and bag limit regulations shall conform with the most recent ocean fishing regulations for adjacent waters of Punch Card Area 1.

(9) North Jetty (mouth of Columbia River): Open to angling from the bank only concurrent with the Buoy 10 fishery. Bag limit and gear requirement will be identical with those in the Buoy 10 fishery.

#### AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57-200 DICKEY RIVER. (1) Bag Limit C – July 1 through August 31: Downstream of the mouth of east fork of the Dickey River to the National Park boundary.

(2) Bag Limit A – September 1 through November 30: Downstream of the mouth of east fork of the Dickey River to the National Park boundary. ~~((All coho salmon greater than 20 inches in length must be released immediately.))~~

#### AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-220 DUWAMISH RIVER. (1) Bag Limit A – July 1 through November 30: Upstream from the ~~((Oxbow Bridge (the first bridge downstream from the))~~ Highway 99 Bridge (Pacific Highway South Bridge) to the Highway 405 Bridge except that all chinook salmon greater than 24 inches in length must be released immediately.

(2) Bag Limit A – October 6 through November 30: Upstream from the First Avenue South Bridge to the Oxbow Bridge except that all chinook salmon greater than 24 inches in length must be released.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57-230 ELK RIVER. ((Special)) Bag limit C - ((Six salmon including not more than two chum. All salmon must be not less than 10 inches in length, chinook salmon may not be greater than 24 inches in length and coho salmon may not be greater than 20 inches in length--)) July 1 through November 30: Downstream from the confluence of the west ((fork)) and the middle forks to the Highway 105 Bridge. Bag limit A - October 1 through January 31: Downstream from the confluence of the west and middle forks to the Highway 105 Bridge, except that chinook salmon greater than 28 inches in length must be released.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-240 ELWHA RIVER. (1) Special bag limit - six salmon per day not less than ten inches in length except that chinook salmon greater than 28 inches in length and pink salmon must be released - October 1 through December 31.

(2) It is unlawful to fish for or possess salmon from the waters of the Elwha River between markers located approximately 50 yards upstream and downstream from the tribal hatchery outfall or from the slough connecting the hatchery outfall to the mainstem of the river.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-270 HOH RIVER. (1) Bag Limit C - last Saturday in May through November 30: Downstream from the mouth of the south fork to the mouth of Willoughby Creek.

(2) Bag Limit A - last Saturday in May through November 30: Downstream from the mouth of Willoughby Creek ((except all coho salmon over 20 inches in length must be released immediately)).

AMENDATORY SECTION (Amending Order 85-33, filed 4/16/85)

WAC 220-57-285 HUMPTULIPS RIVER. (1) Bag Limit C - July 1 through August 31: Downstream from confluence of east and west forks.

(2) Bag Limit C - September 1 through January 31: Downstream of confluence of east and west forks to Highway 101 Bridge.

(3) Bag Limit A - September 1 through January 31: Downstream from the Highway 101 Bridge. Chinook salmon over 28 inches in length must be released immediately unless retention is authorized by emergency order.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-290 ICICLE RIVER. Bag Limit A - May 16 through June 30: Downstream from a point 400 feet below the Leavenworth National Fish Hatchery rack to a set of fishing boundary markers located at the mouth.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-327 MCLANE CREEK. Bag Limit ((€)) A - July 1 through October 31: Open from a line 100 feet upstream and parallel to the south bridge of Highway 101 at Mud Bay to a line 50 feet north of and parallel to the Mud Bay Road Bridge, except waters within 400 feet of the outfall of the Allison Springs chinook rearing pond are closed to salmon angling.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-335 NASELLE RIVER. (1) Bag Limit A - July 1 through September 30: Downstream from ((a point 400 feet below the entrance to the Naselle Salmon Hatchery Attraction Channel)) the Highway 4 Bridge to Highway 101 Bridge except only one chinook salmon greater than 28 inches in length may be retained as part of the daily bag limit.

(2) Special bag limit - six salmon per day not less than 10 inches in length, not more than four of which may be adult salmon, defined as chinook salmon greater than 24 inches in length, coho salmon greater than 20 inches in length and chum salmon greater than 10 inches in length. ((Not more than two of the salmon in the daily bag limit may be chum salmon, and)) All chinook salmon over 28 inches in length must be released immediately - October 1 through ((November 30)) October 14: Downstream from the ((Big Hill)) Highway 4 Bridge to the Highway 101 Bridge.

(3) Special bag limit - six salmon per day not less than 10 inches in length, not more than four of which may be adult salmon, defined as

chinook salmon greater than 24 inches in length, coho salmon greater than 20 inches in length and chum salmon greater than 10 inches in length. All chinook salmon greater than 28 inches in length must be released immediately - October 15 through November 30: Downstream from the Big Hill Bridge to the Highway 101 Bridge.

(4) Bag Limit A - December 1 through January 31: Downstream from the Big Hill Bridge to the Highway 101 Bridge.

((+)) (5) Waters within 400 feet both upstream and downstream from the entrance to the Naselle Salmon Hatchery Attraction Channel are closed to salmon angling at all times.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-385 QUILLAYUTE RIVER. (1) Bag Limit A - ((last Saturday in)) May 1 through ((August 31)) November 30: Downstream from the confluence of the Soleduck and Bogachiel rivers including Olympic National Park waters((- except chinook salmon greater than 24 inches in length must be released immediately.

(2) Bag Limit A - September 1 through November 30: Downstream from the confluence of the Soleduck and Bogachiel rivers including Olympic National Park waters. During the period September 20 through November 30, all coho salmon greater than 20 inches in length must be released immediately)).

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-445 SNAKE RIVER. Bag Limit ((€)) A - September 1 through November 30: Downstream from ((the mouth of the Palouse River)) a point 400 feet below Little Goose Dam to Lower Monument Dam, except waters within 400 feet of the Lyons Ferry hatchery fishway are closed to salmon angling. Chinook salmon greater than 28 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-460 SOLEDUCK RIVER. Bag Limit A - ((last Saturday in)) May 1 through November 30: Downstream from concrete pump station at Soleduck Hatchery. ((Chinook salmon greater than 24 inches in length caught prior to September 1 must be released immediately, and coho salmon greater than 20 inches in length caught after October 15 must be released immediately.))

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-495 WASHOUGAL RIVER. ((+)) Bag Limit A - January 1 through December 31: Downstream from bridge at Salmon Falls to mouth. During the period October 1 through December 31, in waters upstream from the mouth of Little Washougal River, chinook salmon over 28 inches in length must be released. From September 1 to October 31, lawful salmon angling gear shall be restricted to bait or lures with one single point hook only, measuring no more than 1/2 inch from point to shank.

((2) "Washougal River - Special fishing area": Waters from markers 50 feet upstream from the fisheries department salmon hatchery rack, upstream to the barrier dam are open to salmon fishing from September 18 through December 31. This special fishery shall be limited to persons who are 65 years of age or older. Persons wishing to participate in this fishery must have proof of their age in their possession while fishing. Daily bag limit: Six salmon 10 inches or more in length. Possession limit: Two daily bag limits in any form. The first six salmon caught, regardless of where they are hooked (inside or outside their mouth), must be retained. In this special fishing area, legal fishing gear shall be limited to one hand-held rod to which may be attached not more than one hook (or one lure with one hook attached). This one hook shall not have more than three points, and the maximum distance between shank and points is not to exceed 1/2 inch.))

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-505 WHITE SALMON RIVER. (1) Bag Limit C - January 1 through December 31: Upstream from a set of markers approximately 1/2 mile north of Highway 14 Bridge to a line 400 feet downstream from Condit Dam.

(2) Bag Limit A - January 1 through December 31: Downstream from a set of markers approximately 1/2 mile north of Highway 14 Bridge.

(3) (Little) White Salmon River (Drano Lake): Bag Limit A - ((September)) August 1 through December 31: Downstream from

markers on point of land downstream and across from Federal Salmon Hatchery.

**AMENDATORY SECTION** (Amending Order 83-16, filed 3/17/83)

WAC 220-57-515 WIND RIVER. Bag Limit A - ((September)) August 1 through October 31: Downstream from the Burlington Northern Railroad Bridge to the mouth.

**AMENDATORY SECTION** (Amending Order 87-16, filed 4/21/87)

WAC 220-57A-175 LAKE WASHINGTON. (1) Waters north of the Evergreen Point Floating Bridge - Bag Limit A - August 1 through December 31. Sockeye salmon must be released immediately.

(2) Waters south of the Evergreen Point Floating Bridge - Bag Limit A - October 15 through December 31. Sockeye salmon must be released immediately.

((Note:)) Waters within a 1,000-foot radius of the mouth of the Cedar River are closed to salmon angling at all times.

**(3) Single barbless hooks on nonbouyant lures required.**

**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.

**AMENDATORY SECTION** (Amending Order 87-16, filed 4/21/87)

WAC 220-57A-180 WASHINGTON SHIP CANAL, LAKE (INCLUDING LAKE UNION). Bag Limit A - August 1 through December 31: West of University Bridge, to a line perpendicular to the north wing wall located 400 east of the eastern end of the north wing-wall of the Chittenden Locks. Waters between the University Bridge and the concrete abutment ends east of the Montlake Bridge and waters between the line 400 east of eastern end of the north wingwall of the Chittenden Locks and the railroad bridge west of the locks are closed to salmon angling at all times.

**WSR 88-03-076**

**PROPOSED RULES**

**DEPARTMENT OF FISHERIES**

[Filed January 20, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning personal use fishing rules.

At 10:00 a.m., Saturday, February 27, 1988, simultaneous hearings will be held in: Anthon 102, Yakima Valley College, 16th Avenue and Nob Hill Boulevard, Yakima, Washington, for information call (509) 575-2350; and in the Foster Auditorium, Clark College, 1800 East McLoughlin Boulevard, Vancouver, WA, for information call (206) 694-6521; and in Room 120, Baker Hall, Everett Community College, 801 Wetmore Avenue, Everett, WA, for information call (206) 259-7151.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 4, 1988.

The authority under which these rules are proposed is RCW 75.08.080.

The specific statute these rules are intended to implement is RCW 75.08.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 27, 1988.

Dated: January 20, 1988

By: Judith Merchant  
for Joseph R. Blum  
Director

**STATEMENT OF PURPOSE**

Title: WAC 220-16-085 Definitions—Ring net; 220-56-116 Barbless hooks—Areas and species; 220-56-120 Closed areas—Angling; 220-56-128 Food fish fishing closures—Areas and species; 220-56-240 Daily bag limits—Other food fish; 220-56-245 Halibut—Bag and possession limits; 220-56-285 Shad and sturgeon—Areas and seasons; 220-57-240 Elwha River; and 220-57-380 Quilcene River.

Description of Purpose: Modify personal use fishing rules.

Statutory Authority: RCW 75.08.080.

Summary of Rule and Reasons Supporting Proposed Action: WAC 220-16-085 redefines ring net to require sides of gear to be on bottom until gear lifted. This clarifies the requirement that the shellfish movements are not restricted; WAC 220-56-116 requires barbless hook use for Lake Washington salmon and McNary Dam to Bonneville Dam sturgeon. These changes will protect Cedar River sockeye and a selected over-fished sturgeon stock; WAC 220-56-120 extends closed area in Duwamish River. Protects returning Green River chinook; WAC 220-56-128 establishes closure at Enetai Hatchery. Protects returning broodstock; WAC 220-56-240 reduces legal size range in McNary Dam to Bonneville Dam sturgeon and in 1989 establishes an annual sturgeon bag limit. This affords protection for a selected over-fished stock in the Columbia River, and limits the total sturgeon fishery, which has rapidly expanded in recent years; WAC 220-56-245 reduces halibut daily bag limit to one fish inside Bonilla-Tatoosh line. Affords protection to over-utilized halibut stocks; WAC 220-56-285 closes McNary Dam to Bonneville Dam sturgeon from December through February. Affords protection to a selected over-fished sturgeon stock; WAC 220-56-380 closes year round harvest at Dosewallips and Belfair state parks. There are insufficient numbers of oysters to allow year round harvest, and closes Scenic Beach through April 14, 1989. No harvest [harvestable] surplus of oysters is available; WAC 220-57-240 reduces harvestable chinook size to 24 inches. Provides additional protection for returning chinook; and WAC 220-57-380 reduces harvestable chinook size to 24 inches. Provides additional protection for returning chinook.

Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, Washington, 586-2429; Implementation: Gene DiDonato and Mark G. Pedersen, 115 General Administration Building, Olympia, Washington, 753-6600; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, Washington, 753-6585.

These rules are proposed by the Washington Department of Fisheries and, for Columbia River sturgeon, by the Columbia River Intertribal Council.

Comments: None.

These proposals are not the result of federal law or court order.

Small Business Economic Impact Statement: These rules regard personal use sport fishing. No impact on small businesses is anticipated. In any event, no effect on

10% of businesses in any one three-digit industrial classification nor 20% of all businesses is expected.

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

WAC 220-16-085 DEFINITIONS—RING NET. "Ring net" shall be defined to include all fishing gear having a rigid frame measuring no more than ten feet in diameter that is used to take shellfish in a live condition. The sides and all other parts of the gear must lie flat on the bottom in such a manner that the gear does not entrap or restrict the free movement of shellfish until lifted.

**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 85-20, filed 4/9/85)

WAC 220-56-116 ((SALMON—LAWFUL GEAR)) BARBLESS HOOKS—AREAS AND SPECIES (1) Barbless hooks are hooks on which the barb has been filed off, removed, pinched down, or deleted when manufactured.

(2) It is unlawful to use barbed hooks while angling:

(a) For salmon in all marine waters of Puget Sound, the Pacific Ocean, Grays Harbor, Willapa Bay, and waters at the mouth of the Columbia River westerly of ((a line drawn true north-south through)) the Buoy 10 Line.

(b) For sturgeon in those waters of the Columbia River between Bonneville Dam and McNary Dam.

(c) For salmon in Lake Washington (additionally, single hooks only may be used).

((Barbless hooks are hooks on which the barb has been filed off, removed, pinched down, or deleted when manufactured.))

**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 87-16, filed 4/21/87)

WAC 220-56-120 CLOSED AREAS—ANGLING. It is unlawful to fish for or possess food fish taken from the following areas during the times indicated.

(1) Waters of Budd Inlet at Olympia south of the Fourth Avenue Bridge are closed to food fish angling at all times.

(2) The waters of Percival Cove are closed to food fish angling at all times.

(3) Those waters of Hood Canal within 100 feet of the Seabeck Highway Bridge over Big Beef Creek are closed to food fish angling from 12:01 a.m. August 1 through 11:59 p.m. November 30.

(4) Those waters of Elliott Bay southerly and upstream from lines described as a 1,000 foot radius north of a point midway between Port of Seattle Pier 37 and the Crowley Maritime Corporation Pier 18 and a 1,000 foot radius north of a point midway between the Todd Shipyard Pier 13 and the Lockheed Shipyard pier 4 to the First Avenue South Bridge over the Duwamish River are closed to angling for food fish from 12:01 a.m. August 1 through 11:59 p.m. September 18.

(5) Those waters of the Columbia River downstream from the Vernita Bridge to the old Hanford townsite wooden power line towers are closed to angling for food fish from 12:01 a.m. October 16 to 11:59 p.m. June 15.

(6) those waters of the Duwamish River downstream from the ((Oxbow Bridge (the first bridge downstream from the Pacific Highway Avenue South Bridge))) Highway 99 Bridge (the Pacific Highway South Bridge) to the First Avenue South Bridge are closed to angling for food fish from 12:01 a.m. July 1 to 11:59 p.m. October 5.

**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.

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

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

WAC 220-56-128 ((PERSONAL USE)) FOOD FISH FISHING CLOSURES—AREAS AND SEASONS. (1) It is unlawful to ((take)) fish for or possess food fish taken for personal use in ((those)) waters lying within one mile below any fish rack, fishway, dam or other artificial or natural obstruction, either temporary or permanent, unless otherwise provided.

(2) It is unlawful ((unless otherwise provided)) to ((take)) fish for or possess food fish taken for personal use in waters ((outside)) inside of or ((downstream)) upstream from the following described Puget Sound marine water lines ((and as provided in WAC 220-56-105)):

(a) Hood Canal:

(i) Waters within a radius of one hundred feet from the confluence of Finch Creek with tidewater adjacent to the Hood Canal Salmon Hatchery.

(ii) Waters within a radius of one hundred feet from the Enetai Hatchery outfall creek where it enters saltwater.

(b) Sinclair Inlet: A line fifty yards from the pierhead line of the Puget Sound Naval Shipyard at Bremerton.

(c) Budd Inlet: The Fourth Avenue Bridge at Olympia.

(d) Shilshole Bay: For salmon the line shall be the Burlington Northern Railroad Bridge. For bottomfish and other food fish, the line shall be 400 feet below the fish ladder at the Chittenden Locks from October 1 through May 31; and below the Burlington Northern Railroad Bridge all year.

(e) Chinook River: The tide gate at the Highway 101 Bridge.

(3) It is unlawful to ((take)) fish for ((;)) or possess food fish taken for personal use ((in)) from those waters of the Columbia River:

(a) Between the Vernita Bridge and the Hanford power line crossing (wooden towers at S24, T13N, R27E) from October 16 through June 30.

((It is unlawful to take, fish for or possess food fish for personal use in those Columbia River waters))

(b) Between the upstream line of Bonneville Dam to a point 600 feet below the fish ladder at the new Bonneville Dam Powerhouse.

**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.

**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.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-56-240 DAILY BAG LIMITS—OTHER FOOD FISH. It ((shall be lawful, unless otherwise provided)) is unlawful for any one person to take in any one day more than the following quantities and sizes of food fish taken for personal use:

(1) Sturgeon: 2 fish not less than 36 inches nor more than 72 inches in length state-wide, except:

(a) 2 fish not less than 48 inches nor more than 72 inches in length in the Columbia River and mainstem impoundments upstream from a line perpendicular to the river flow where the river ceases to be the Oregon/Washington boundary approximately 17.3 miles above McNary Dam to the United States/Canada border and those waters of the Snake River from its mouth upstream to the powerline crossing at Clarkston.

(b) 1 fish not less than 42 inches nor more than 60 inches in length in the Columbia River between Bonneville Dam and McNary Dam.

(c) The possession limit is two daily bag limits of fresh sturgeon. Additional sturgeon may be possessed in a frozen or processed form.

(d) Effective January 1, 1989, there is an annual personal bag limit of 15 sturgeon.

(2) Smelt: 20 pounds. The daily bag limit and the possession limit are the same. It is unlawful for any person to possess more than 20 pounds of smelt at any time.

(3) Herring: 20 pounds fresh. Additional herring may be possessed in a frozen or processed form.

(4) All other food fish not otherwise provided for in this chapter: No limit.

**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 80-12, filed 2/27/80)

WAC 220-56-245 HALIBUT—BAG AND POSSESSION LIMITS~~((=HALIBUT))~~. (1) It ~~((shall be))~~ is unlawful~~((, unless otherwise provided,))~~ to ~~((take,))~~ fish for or possess more than:

(a) ~~Two ((Pacific))~~ halibut taken from Catch Record Card Areas 1, 2, 3, or those waters of Area 4 west of the Bonilla-Tatoosh Line in any one day.

(b) One halibut taken from those waters of Catch Record Card Area 4 east of the Bonilla-Tatoosh Line or Areas 5 through 13 in any one day.

(2) The possession limit shall not exceed one daily bag limit of fresh halibut.

**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 83-16, filed 3/16/83 [3/17/83])

WAC 220-56-285 SHAD AND STURGEON—AREAS AND SEASONS. It is lawful the entire year to ~~((take,))~~ fish for ~~((and))~~ or possess sturgeon and shad taken for personal use ~~((by angling, unless otherwise provided, and))~~ except in the following closed waters:

(1) Waters lying one mile downstream below any rack dam or other obstruction concurrent with salmon angling boundaries provided for in Chapter 220-57 WAC, except as provided for in subsections (2) and (3) of this section.

(2) Waters lying 400 feet downstream below any dam, rack or obstruction in the Snake River.

(3) Columbia River waters between the upstream line of Bonneville Dam and the lowermost Bonneville powerline crossing, approximately 1-1/4 mile downstream from the dam, are closed to the ~~((taking,))~~ fishing for~~((;))~~ or possession of sturgeon except when fishing with hand-casted hook and line gear from the mainland shore in those waters lying downstream of a line running southerly from a fishing boundary marker on the Washington shore (approximately 3/4 mile downstream from the dam) to the downstream end of Cascade Island ~~((and))~~ thence to the Oregon angling boundary marker on Bradford Island (located approximately 600 feet downstream from the fish ladder entrance).

(4) Columbia River waters between Bonneville Dam and McNary Dam are closed to fishing for sturgeon from December 1 through the last day of February of the following year.

**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.

**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.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-56-380 OYSTERS—AREAS AND SEASONS. (1) It is unlawful to take oysters for any purpose from state oyster reserves without written permission of the director of fisheries.

(2) It is unlawful to take or possess oysters for personal use from public tidelands from July 15 through September 15 ~~((except that it is lawful to take and possess oysters for personal use from the tidelands of Dosewallips and Belfair State Parks from January 1 through December 31))~~.

(3) It is unlawful to take or possess oysters for personal use from federally-owned tidelands at Seal Rock Forest Service campground except during the period May 16 through July 14.

(4) It is unlawful to take or possess oysters for personal use from tidelands of Kitsap Memorial State Park except during the period May 16 through June 15.

(5) It is unlawful to take or possess oysters for personal use from tidelands at Scenic Beach State Park ~~((except during the period March 15))~~ through ~~((May 15))~~ April 14, 1989.

(6) It is unlawful to take or possess oysters for personal use from Department of Fisheries tidelands at Hoodport Salmon Hatchery except during the period May 16 through July 14.

(7) It is unlawful to take or possess oysters for personal use from state tidelands at Bywater Bay except during the period May 16 through July 14.

(8) It is unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

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

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-240 ELWAH RIVER. Special bag limit – six salmon per day not less than ten inches in length except that chinook salmon greater than ~~((28))~~ 24 inches in length must be released – October 1 through December 31.

**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.

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

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-380 QUILCENE (BIG QUILCENE) RIVER. Bag limit A – September 1 through January 31: Downstream from Highway 101 Bridge. During the month of September chinook salmon greater than ~~((28))~~ 24 inches in length must be released immediately.

## Table of WAC Sections Affected

### KEY TO TABLE

**Symbols:**

- AMD = Amendment of existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- RE-AD = Re-adoption of existing section
- REP = Repeal of existing section
- REAFF = Order assuming and reaffirming rules
- REMOV = Removal of rule pursuant to RCW 34.04.050(5)
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule
- STMT = Statement regarding previously adopted rule

**Suffixes:**

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

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132I-14-080	REP-P 88-03-047	132U-116-010	NEW-E 88-02-047	217-17-260	AMD-P 88-03-014
132I-14-090	REP-P 88-03-047	132U-116-020	NEW-E 88-02-047	217-17-265	AMD-P 88-03-014
132I-14-100	REP-P 88-03-047	132U-116-030	NEW-E 88-02-047	217-17-270	AMD-P 88-03-014
132I-14-110	REP-P 88-03-047	173-18-280	AMD 88-03-070	217-17-335	AMD-P 88-03-014
132I-14-120	REP-P 88-03-047	173-19-220	AMD-P 88-03-069	217-17-345	AMD-P 88-03-014
132I-14-130	REP-P 88-03-047	173-19-310	AMD-W 88-02-053	217-17-352	NEW-P 88-03-014
132I-14-140	REP-P 88-03-047	173-19-310	AMD-P 88-02-054	217-17-362	NEW-P 88-03-014
132I-14-150	REP-P 88-03-047	173-19-3302	AMD 88-02-064	220-16-085	AMD-P 88-03-076
132I-14-160	REP-P 88-03-047	173-19-3512	AMD-C 88-02-063	220-20-010	AMD-P 88-03-075
132I-14-170	REP-P 88-03-047	173-22-0648	AMD 88-03-070	220-48-01500A	NEW-E 88-03-009
132I-14-180	REP-P 88-03-047	173-201	AMD 88-02-058	220-48-02900B	NEW-E 88-03-009
132I-14-190	REP-P 88-03-047	173-201-010	AMD 88-02-058	220-55-06500A	NEW-E 88-02-048
132I-14-200	REP-P 88-03-047	173-201-025	AMD 88-02-058	220-55-07000A	NEW-E 88-02-048
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132I-120-020	NEW-P 88-03-048	173-201-047	NEW 88-02-058	220-55-12000A	NEW-E 88-02-048
132I-120-030	NEW-P 88-03-048	173-201-070	AMD 88-02-058	220-55-13000A	NEW-E 88-02-048
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220-56-199	AMD-P 88-03-075	248-100-452	REP-P 88-03-022	308-91-070	AMD-E 88-03-030
220-56-205	AMD-P 88-03-075	250-65-010	NEW 88-03-008	308-91-070	AMD-P 88-03-067
220-56-235	AMD-P 88-03-075	250-65-020	NEW 88-03-008	308-91-080	AMD-E 88-03-030
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220-56-255	AMD-P 88-03-075	250-65-050	NEW 88-03-008	308-91-090	AMD-P 88-03-067
220-57-265	AMD-P 88-03-075	250-65-060	NEW 88-03-008	308-91-100	REP-E 88-03-030
220-56-285	AMD-P 88-03-076	251-01-018	NEW-P 88-02-072	308-91-100	REP-P 88-03-067
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220-56-335	AMD-P 88-03-075	251-01-258	NEW-P 88-02-072	308-91-110	REP-P 88-03-067
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220-56-355	AMD-P 88-03-075	251-01-445	REP-P 88-02-072	308-91-120	NEW-P 88-03-067
220-56-380	AMD-P 88-03-075	251-01-450	REP-P 88-02-072	308-91-130	NEW-E 88-03-030
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220-57-130	AMD-P 88-03-075	251-10-170	AMD-P 88-02-072	308-91-140	NEW-E 88-03-030
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220-57-240	AMD-P 88-03-076	296-17-349	NEW-P 88-02-059	308-91-170	NEW-P 88-03-067
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220-57-285	AMD-P 88-03-075	296-17-885	AMD-P 88-02-060	308-124B-010	REP-E 88-02-050
220-57-290	AMD-P 88-03-075	296-17-895	AMD-P 88-02-060	308-124B-010	REP-P 88-02-051
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220-57-385	AMD-P 88-03-075	308-42-015	NEW-P 88-03-033	308-124B-150	NEW-P 88-02-051
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220-57A-180	AMD-P 88-03-075	308-90-010	REP-E 88-03-001	308-138A-020	AMD-P 88-03-035
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230-04-197	REP-P 88-03-024	308-90-030	AMD-E 88-03-001	308-180-220	AMD-P 88-02-061
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230-08-017	NEW-P 88-03-024	308-90-040	AMD-E 88-03-001	308-180-270	NEW-P 88-02-061
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232-28-61618	NEW-E 88-03-023	308-90-130	NEW-E 88-03-001	308-410-050	NEW 88-03-037
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248-100-025	REP-P 88-03-022	308-90-140	NEW-E 88-03-001	308-410-070	NEW 88-03-037
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248-100-163	REP-P 88-03-022	308-90-160	NEW-E 88-03-001	315-20-090	AMD-P 88-02-062
248-100-164	REP-P 88-03-022	308-90-160	NEW 88-03-038	315-30-080	AMD-P 88-02-062
248-100-166	NEW-P 88-03-022	308-91-010	AMD-E 88-03-030	315-32-050	AMD-P 88-02-066
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356-34-030	AMD	88-03-043	388-14-425	NEW-E	88-02-056	392-121-180	REP	88-03-013
356-34-040	AMD	88-03-043	388-14-430	NEW-P	88-02-055	392-121-181	NEW	88-03-013
356-34-045	NEW	88-03-043	388-14-430	NEW-E	88-02-056	392-121-182	NEW	88-03-013
356-34-050	AMD	88-03-043	388-15-207	AMD-P	88-02-065	392-121-183	NEW	88-03-013
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360-08-030	REP-P	88-03-036	388-15-212	AMD-P	88-02-065	392-121-190	REP	88-03-013
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360-08-090	REP-P	88-03-036	388-15-215	AMD-P	88-02-065	392-121-205	NEW	88-03-013
360-08-100	REP-P	88-03-036	388-15-217	AMD-P	88-02-065	392-121-210	NEW	88-03-013
360-08-110	REP-P	88-03-036	388-15-690	NEW	88-03-020	392-121-215	NEW	88-03-013
360-08-120	REP-P	88-03-036	388-15-695	NEW	88-03-020	392-121-220	NEW	88-03-013
360-08-130	REP-P	88-03-036	388-15-700	NEW	88-03-020	392-121-225	NEW	88-03-013
360-08-140	REP-P	88-03-036	388-15-705	NEW	88-03-020	392-121-245	NEW	88-03-013
360-08-410	REP-P	88-03-036	388-15-710	NEW	88-03-020	392-121-250	NEW	88-03-013
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360-08-440	REP-P	88-03-036	388-81-047	NEW	88-03-050	392-121-257	NEW	88-03-013
360-08-450	REP-P	88-03-036	388-86-005	AMD-P	88-03-021	392-121-260	NEW	88-03-013
360-08-460	REP-P	88-03-036	388-86-085	AMD-P	88-03-021	392-121-265	NEW	88-03-013
360-08-470	REP-P	88-03-036	388-86-086	NEW-P	88-03-021	392-121-267	NEW	88-03-013
360-08-480	REP-P	88-03-036	388-87-010	AMD-P	88-03-021	392-121-268	NEW	88-03-013
360-08-490	REP-P	88-03-036	388-87-027	AMD-P	88-03-021	392-121-270	NEW	88-03-013
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388-14-010	AMD-E	88-02-056	392-121-031	NEW	88-03-013	392-127-003	NEW	88-03-004
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388-14-030	AMD-E	88-02-056	392-121-105	REP	88-03-013	392-139-010	REP	88-03-007
388-14-200	AMD-P	88-02-055	392-121-106	NEW	88-03-013	392-139-016	REP	88-03-007
388-14-200	AMD-E	88-02-056	392-121-107	NEW	88-03-013	392-139-017	REP	88-03-007
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388-14-205	AMD-E	88-02-056	392-121-110	REP	88-03-013	392-139-021	REP	88-03-007
388-14-210	AMD-P	88-02-055	392-121-111	NEW	88-03-013	392-139-022	REP	88-03-007
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388-14-220	AMD-P	88-02-055	392-121-120	REP	88-03-013	392-139-031	REP	88-03-007
388-14-220	AMD-E	88-02-056	392-121-121	REP	88-03-013	392-139-036	REP	88-03-007
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388-14-270	AMD-E	88-02-056	392-121-123	NEW	88-03-013	392-139-038	REP	88-03-007
388-14-302	AMD-P	88-02-055	392-121-125	REP	88-03-013	392-139-050	NEW	88-03-007
388-14-302	AMD-E	88-02-056	392-121-126	REP	88-03-013	392-139-051	NEW	88-03-007
388-14-305	AMD-P	88-02-055	392-121-127	REP	88-03-013	392-139-052	NEW	88-03-007
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388-14-310	AMD-P	88-02-055	392-121-129	REP	88-03-013	392-139-056	NEW	88-03-007
388-14-310	AMD-E	88-02-056	392-121-130	REP	88-03-013	392-139-057	NEW	88-03-007
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388-14-320	REP-E	88-02-056	392-121-133	NEW	88-03-013	392-139-105	NEW	88-03-007
388-14-325	REP-P	88-02-055	392-121-135	REP	88-03-013	392-139-110	NEW	88-03-007
388-14-325	REP-E	88-02-056	392-121-136	NEW	88-03-013	392-139-115	NEW	88-03-007
388-14-370	AMD-P	88-02-055	392-121-140	REP	88-03-013	392-139-120	NEW	88-03-007
388-14-370	AMD-E	88-02-056	392-121-145	REP	88-03-013	392-139-122	NEW	88-03-007
388-14-385	AMD-P	88-02-055	392-121-150	REP	88-03-013	392-139-126	NEW	88-03-007
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