

Washington State Register

DECEMBER 20, 1989

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IN THIS ISSUE

Agriculture, Department of
Apprenticeship and Training Council
Banking, Division of
Centralia College
Columbia River Gorge Commission
Convention and Trade Center
Ecology, Department of
Employment Security Department
Energy Facility Site Evaluation Council
Fisheries, Department of
Forest Practices Board
Gambling Commission
General Administration, Department of
Health, Board of
Health, Department of
Higher Education Coordinating Board
Horse Racing Commission
Housing Finance Commission
Judicial Conduct, Commission on
Labor and Industries, Department of
Legal Foundation of Washington

Licensing, Department of
Lottery Commission
Marine Employees' Commission
Minority and Women's Business Enterprises,
Office of
Natural Resources, Department of
Noxious Weed Control Board
Parks and Recreation Commission
Personnel, Department of
Professional Engineers and Land Surveyors,
Board of Registration for
Public Employment Relations Commission
Public Instruction, Superintendent of
Savings and Loan Associations, Division of
Social and Health Services, Department of
Supreme Court
Transportation Improvement Board
Utilities and Transportation Commission
Washington Institute of Applied Technology
Washington State Patrol
Wildlife, Department of

(Subject/Agency index at back of issue)
This issue contains documents officially
filed not later than December 6, 1989

CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

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

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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

STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of December 1989 pursuant to RCW 19.52.020 is twelve point zero percent (12.0%).

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 1990 pursuant to RCW 63.14.130(1)(a) is fourteen and one-half percent (14.50%).

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is thirteen point seven five percent (13.75%) for the first calendar quarter of 1990.

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

WASHINGTON STATE REGISTER

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The Washington State Register is an official publication of the state of Washington. It contains proposed, emergency, and permanently adopted administrative rules, as well as other documents filed with the code reviser's office pursuant to RCW 34.08.020 and 42.30.075. Publication of any material in the Washington State Register is deemed to be official notice of such information.

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

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

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

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

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

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

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

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

5. EFFECTIVE DATE OF RULES

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

6. EDITORIAL CORRECTIONS

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

7. INDEX AND TABLES

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

1989 – 1990

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

<u>Issue No.</u>	<u>Closing Dates¹</u>			<u>Distribution Date</u>	<u>First Agency Hearing Date³</u>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
<u>For Inclusion in—</u>	<u>File no later than—</u>			<u>Count 20 days from—</u>	<u>For hearing on or after</u>
89-14	Jun 7	Jun 21	Jul 5	Jul 19	Aug 8
89-15	Jun 21	Jul 5	Jul 19	Aug 2	Aug 22
89-16	Jul 5	Jul 19	Aug 2	Aug 16	Sep 5
89-17	Jul 26	Aug 9	Aug 23	Sep 6	Sep 26
89-18	Aug 9	Aug 23	Sep 6	Sep 20	Oct 10
89-19	Aug 23	Sep 6	Sep 20	Oct 4	Oct 24
89-20	Sep 6	Sep 20	Oct 4	Oct 18	Nov 7
89-21	Sep 20	Oct 4	Oct 18	Nov 1	Nov 21
89-22	Oct 4	Oct 18	Nov 1	Nov 15	Dec 5
89-23	Oct 25	Nov 8	Nov 22	Dec 6	Dec 26
89-24	Nov 8	Nov 22	Dec 6	Dec 20	Jan 9, 1990
90-01	Nov 22	Dec 6	Dec 20, 1989	Jan 3, 1990	Jan 23
90-02	Dec 6	Dec 20, 1989	Jan 3, 1990	Jan 17	Feb 6
90-03	Dec 27, 1989	Jan 10, 1990	Jan 24	Feb 7	Feb 27
90-04	Jan 10	Jan 24	Feb 7	Feb 21	Mar 13
90-05	Jan 24	Feb 7	Feb 21	Mar 7	Mar 27
90-06	Feb 7	Feb 21	Mar 7	Mar 21	Apr 10
90-07	Feb 21	Mar 7	Mar 21	Apr 4	Apr 24
90-08	Mar 7	Mar 21	Apr 4	Apr 18	May 8
90-09	Mar 21	Apr 4	Apr 18	May 2	May 22
90-10	Apr 4	Apr 18	May 2	May 16	Jun 5
90-11	Apr 25	May 9	May 23	Jun 6	Jun 26
90-12	May 9	May 23	Jun 6	Jun 20	Jul 10
90-13	May 24	Jun 7	Jun 21	Jul 5	Jul 25
90-14	Jun 7	Jun 21	Jul 5	Jul 18	Aug 7
90-15	Jun 20	Jul 5	Jul 18	Aug 1	Aug 21
90-16	Jul 5	Jul 18	Aug 1	Aug 15	Sep 4
90-17	Jul 25	Aug 8	Aug 22	Sep 5	Sep 25
90-18	Aug 8	Aug 22	Sep 5	Sep 19	Oct 9
90-19	Aug 22	Sep 5	Sep 19	Oct 3	Oct 23
90-20	Sep 5	Sep 19	Oct 3	Oct 17	Nov 6
90-21	Sep 26	Oct 10	Oct 24	Nov 7	Nov 27
90-22	Oct 10	Oct 24	Nov 7	Nov 21	Dec 1
90-23	Oct 24	Nov 7	Nov 21	Dec 5	Dec 25
90-24	Nov 7	Nov 21	Dec 5	Dec 19	Jan 2, 1991

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

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

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

WSR 89-24-001
PROPOSED RULES
GAMBLING COMMISSION
[Filed November 27, 1989, 8:52 a.m.]

Original Notice.

Title of Rule: WAC 230-20-325 Manner of conducting a raffle; 230-30-070 Control of prizes; 230-40-010 Types of card games authorized; 230-40-120 Limits on wagers in card games; 230-40-125 Washington blackjack—Rules of play—Wagering; and 230-60-100 Interpretive and policy statements.

Purpose: Formalize policy regarding the granting of approval for alternative raffle drawings and method of purchasing tickets; clarifies exemptions for secondary verification code requirement; provides rules and manner of conducting Washington blackjack; and to comply with APA requirement to make interpretive or policy statements available to the public.

Statutory Authority for Adoption: RCW 34.05.220(4), 34.05.230 and 9.46.070 (11) and (14).

Statute Being Implemented: Chapter 9.46 RCW.

Summary: Set standards for the method of purchasing raffle tickets and sets requirements for conducting an alternative method of conducting a raffle drawing; removes banded pull tabs from the exemption provided by secondary verification code requirements; sets the rules and manner of conducting Washington blackjack as an authorized card game; and establishes method of making interpretive or policy statements available to the public.

Name of Agency Personnel Responsible for Drafting: Frank L. Miller, Deputy Director, Lacey, Washington, 438-7640; Implementation: Ronald O. Bailey, Director, Lacey, Washington, 438-7640; and Enforcement: Richard Nicks, Assistant Director, Lacey, Washington, 438-7690.

Name of Proponent: Gambling Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See above.

Proposal Changes the Following Existing Rules: Provides alternate method of conducting a raffle; limits exemption requirements for secondary verification requirements; adds a new authorized card game; and new rule to provide public access to interpretive or policy statements.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The agency does not believe these rules are subject to the Regulatory Fairness Act for the following reasons: The rules are minor changes to previous rules or are necessary to implement the provisions of chapter 34.05 RCW; and there is no economic impact to small businesses as a result of these proposals.

Hearing Location: Nendels, 2800 Pacific Avenue, Everett, WA 98201, on February 9, 1990, at 10:00 a.m.

Submit Written Comments to: Washington State Gambling Commission, 4511 Woodview Drive S.E., Lacey, WA 98504-8121, by February 9, 1990.

Date of Intended Adoption: February 9, 1990.

November 21, 1989
Frank L. Miller
Deputy Director

AMENDATORY SECTION (Amending Order 186, filed 2/13/89)

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: PROVIDED, That with prior written director approval, tickets may include any consecutively numbered or lettered object if a stub imprinted with an identical number or letter and all other information required by WAC 230-20-325, is provided to each entrant at the time of purchase.

(2) All prizes available, whether 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. ((After April 15, 1990, 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.

((From October 15, 1988, through April 15, 1990, e)) Each raffle ticket must be sold for the same price as every other raffle ticket being used for that particular raffle. However, the sponsor may provide to a purchaser of a raffle ticket an opportunity to obtain by random method a discount on such a ticket, including the opportunity to obtain that ticket free, but only if the sponsor maintains records for each book of raffle tickets so that income from the sale of tickets in each book can be audited.

(5) 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.

(6) 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. Provided, an alternative drawing format to determine the winning ticket may be utilized if such format is approved by the director in writing prior to the sale of any ticket. The following requirements must be met prior to utilizing any such alternative drawing format:

(a) The organization must have a current raffles license;

(b) The alternate format must meet the definition of a drawing as defined by WAC 230-02-500;

((t)) (c) Any alternate format utilized to determine the winners must be closely controlled by the licensee;

((t)) (d) The request to utilize an alternative drawing format shall contain, at a minimum, the following information:

(i) The time, date and location of the drawing;

- (ii) The type of random selection process to be used and complete details of its operation;
- (iii) The name and telephone number of the raffles manager; and
- (iv) The signature of the organization's chief executive officer.
- (7) The raffle license issued by the commission or a photostatic copy of the license 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 196, filed 8/15/89)

WAC 230-30-070 CONTROL OF PRIZES. All prizes from the operation of punchboards and pull tabs shall be awarded in cash or in merchandise.

(1) Prizes shall be cash or merchandise only. Prizes may not involve the opportunity of taking an additional chance or chances on another punchboard or of obtaining another pull tab or pull tabs. Where the prize involves the opportunity to punch again on the same punchboard, a prize must be awarded for each such punch which is not less than the highest amount of money, or worth not less than the most valuable merchandise prize, which might otherwise have been won by the punch for which the opportunity to take the second punch was awarded. Each such board must clearly indicate on its face the terms and conditions under which the opportunity to obtain the second, or step-up punch, may be obtained and the prizes which may be won by the step-up punch.

(2) Display of prizes:

(a) All prizes shall be displayed in the immediate vicinity of the punchboard or pull tab device and such prizes shall be in full view of any person prior to that person purchasing the opportunity to play.

(b) When the prize is cash it shall be displayed as follows:

(i) If the punchboard or pull tab series contains the opportunity to win both cash and merchandise prizes, the money itself shall not be displayed, but a coupon designating the cash available to be won shall be substituted; and

(ii) If the only prizes which may be won are cash prizes, they shall be clearly and fully described or represented by a coupon displayed upon the prize flare attached to the face or displayed in the immediate vicinity of the pull tab dispensing device.

(c) The licensee shall display prizes so arranged that a customer can easily determine which prizes are available from any particular punchboard or pull tab series or device operated or located upon the premises.

(d) Upon determination of a winner of a merchandise prize, the licensee shall immediately remove that prize from any display and present it to the winner.

(e) Upon determination of a winner of any cash prize of five dollars or more, or of any merchandise prize with a retail value of five dollars or more, but prior to award of the prize, the licensee shall conspicuously delete all references to that prize being available to players from any flare, punchboard or pull tab dispensing device upon which such reference may appear, and from any other list, sign, or notice which may be posted, in such a manner that all future customers will know the prize is no longer available. The prize shall then be paid or delivered to the winner forthwith.

(3) Payment of prizes.

The licensee must pay or award to the customer or player playing the punchboard or pull tab series all such prizes that have not been deleted from the flare of the punchboard or pull tab series when the punchboard or pull tab series is completely played out.

(4) Cash in lieu of merchandise prizes.

No licensee shall offer to pay cash in lieu of merchandise prizes which may be won.

(5) Record of winners:

(a) When any person wins a cash prize of over twenty dollars or wins a merchandise prize with a retail value of more than twenty dollars from the play of any punchboard or pull tab series, the licensee or licensee's representative shall make a record of the win. The record of the win shall be made in a standard format prescribed by the commission and shall disclose at minimum the following information:

(i) The Washington state identification stamp number of the punchboard or pull tab series from which the prize was won;

(ii) The series number of the pull tab series or punchboard from which the prize was won;

(iii) The name of the punchboard or pull tab series;

(iv) The date the pull tab series or punchboard was placed out for play;

- (v) The date the pull tab series or punchboard was removed from play;
- (vi) The month, day and year of the win;
- (vii) If the prize is cash, the amount of the prize won;
- (viii) If the prize is merchandise, a description of the prize won and its retail value;
- (ix) The printed full name of the winner;
- (x) The current address of the winner which will include the street address, the city and the state.

(b) It shall be the responsibility of the licensee to determine the identity of the winner and the licensee shall require such proof of identification as is necessary to properly establish the winner's identity. The licensee shall require the winner to sign his name in ink on the winning pull tab being presented for payment. The licensee shall not pay out any prize unless and until the winner has fully and accurately furnished to the licensee all information required by this rule to be maintained in the licensee record of the win.

(c) From October 1, 1989, until December 31, 1990, the commission shall conduct a test of an alternative method of maintaining a record of winners. This test shall not include more than 100 licensees, all of which receive written permission from the director. Charitable or non-profit licensees participating in this test shall be prohibited from intermingling of funds allowed by WAC 230-08-010(6) and must deposit funds separately and intact as set out in WAC 230-12-020. All participants shall adhere to alternative requirements for retention of winning tabs or punches required by subsection (6) of this rule and WAC 230-30-072. In addition, effective April 1, 1990, all participants shall use only pull tabs that utilize a secondary verification code to prohibit counterfeiting on tabs that award prizes greater than \$20.00. Such codes shall be approved by the Director prior to use within this state. ((Banded pull tabs and p)) Punchboards are exempt from the secondary verification code requirements. During the period of the test when a person wins a cash prize of over twenty dollars or a merchandise prize with a retail value of more than twenty dollars, the following alternative winners record procedures shall apply:

(i) The winners shall be required to print their name and date of birth, in ink, upon the side of the winning punch or tab opposite the winning symbol(s);

(ii) The licensee or their representative shall then verify the winner's identity and record the date and initial the winning punch or tab.

(6) Retention of records. Every licensee shall keep the record of all prizes awarded in excess of twenty dollars, containing all of the information required in subsection (5) above, and all winning pull tabs or punchboard punches for a period of at least four months following the last day of the month in which it was removed from play and shall display the same to any representative of the commission or law enforcement officials upon demand.

(7) Defacing winning punches or tabs. The licensee shall, within twenty-four hours after a winning pull tab or punch of five dollars or more has been presented for payment, mark or perforate the winning symbols in such a manner that the pull tab or punch cannot be presented again for payment.

(8) Value of merchandise prizes. For purposes of this rule, the retail value of a merchandise prize shall be the amount actually paid therefor by the licensed operator plus 50 percent of that actual cost.

(9) Spindle, banded, or "jar" type pull tabs played in a manner which awards merchandise prizes only. Pull tab series which award only merchandise prizes valued at no more than five dollars, are hereby permitted to employ schemes whereby certain predesignated pull tabs are free or the player is otherwise reimbursed the actual cost of said pull tabs. Flares for spindle-type pull tabs operated in this manner shall designate the total number of pull tabs in the series and the total number of pull tabs designated as free or reimbursable. Free or reimbursable pull tabs in these types of pull tab series shall not constitute a prize or prizes nor shall monies collected and later reimbursed constitute revenue for the purposes of determining gross receipts.

AMENDATORY SECTION (Amending Order 183, filed 9/13/88)

WAC 230-40-010 TYPES OF CARD GAMES AUTHORIZED. The commission hereby authorizes the following card games to be played in public card rooms and social card rooms licensed by the commission:

(1) Poker.

Any poker game described in Hoyle's Modern Encyclopedia of Card Games, by Walter B. Gibson, published by Doubleday and Company, Inc., April 1974, 1st edition, pages 219 through 277 provided that only a maximum of five betting rounds per hand are permitted.

- (2) Hearts.
- (3) Pinochle.
- (4) Cribbage.
- (5) Rummy.
- (6) Mah-jongg (tiles).
- (7) Pan.
- (8) Pitch.

(9) Washington Blackjack – as set forth in WAC 230-40-125.

Card games not herein authorized are prohibited.

AMENDATORY SECTION (Amending Order 194, filed 7/18/89)

WAC 230-40-120 LIMITS ON WAGERS IN CARD GAMES – EXCEPTION-WASHINGTON BLACKJACK. The following limits shall not be exceeded in making wagers on any card game. For games in which the following method of wagering is allowed:

(1) Multiple wagers per player per hand during each round, each wager or raise shall not exceed \$5.00. There shall be no more than a total of two raises per round irrespective of the number of players: Provided, That in card games providing for three or more rounds of betting, the wager or raise for the last round of betting, shall not exceed \$10.00.

(2) Single wagers per player per hand during each round (no raises), each wager shall not exceed \$5.00.

(3) Single wager per player per game, each wager shall not exceed \$5.00.

(4) Amount per point, each point shall not equal more than five cents in value.

(5) An ante, except for panguingue (pan), shall not be more than \$6.00. The ante may, by house rule, be made by one or more players but the total ante may not exceed \$6.00. No one player can ante more than five dollars. An ante may be used as part of a players wager. The maximum betting on the first round when an ante is used may not exceed \$15.00 per person, including the ante.

(6) Panguingue (pan) – maximum value of a chip for payoff will not exceed \$2.00. Ante will not exceed one chip. No doubling of conditions. Players going out, may collect not more than two chips from each participating player.

No licensee shall allow these wagering limits to be exceeded in a card game on his premises. Provided, Washington Blackjack shall be subject to the rules and wagering limits set forth in WAC 230-40-125.

NEW SECTION

WAC 230-40-125 WASHINGTON BLACKJACK – RULES OF PLAY – WAGERING LIMITS. Washington Blackjack is a non-house banking, card game and shall be played only in the following manner:

(1) One or two standard fifty-two-card decks shall be used with suits disregarded and each card valued numerically only: ace, 1 or 11; face cards (K, Q, J), 10 each; others according to their spots, 10 to 2. One or two decks may be used when there are six or less players. Two decks shall be used when there are seven or more players. The cards shall be dealt from a shoe at all times. The game is played with a dealer/banker and only a player may be a dealer/banker.

(2) When starting a new table the cards are cut to determine who the first dealer/banker will be. The dealer shall announce the amount of money that he or she will be put into the bank. A minimum bank may be established as per individual house rule.

(3) Once the bank has been established, the player to the immediate left of the dealer places his/her wager on the bet line and the dealer covers that wager by matching it with a like amount of chips. Each player makes their wager in turn and each wager is immediately matched by the dealer. The maximum wager shall not be more than ten dollars (\$10.00) and the minimum wager may be set by house rule. If the bank runs out of money (tapped out) prior to the commencement of the deal, then only those players with a wager covered will be dealt a hand. No player may be dealt more than one hand.

(4) The play begins with the dealer dealing one card face up to each covered player including himself/herself, one more card face up to each covered player, and then one down card to himself/herself. If a player holds an ace and a face card or a ten, it is a "natural" 21 and the player collects twice the amount of their bet from the dealer, unless the dealer also has a natural which results in a tie (push). All ties result in the players and the dealer recovering their wagers.

(5) If the dealer has a "natural," he/she collects the wagers from players who do not have a "natural". If the dealer does not have a "natural," he/she pays off any player with a "natural" starting with

the one closest to their left. Should the dealer not have enough money in the bank to make up the two for one payoff due on a "natural," then those hands and wagers will be frozen in place until the additional wagers are made up or the hand is over. If after the hand is over, a dealer cannot cover the two for one, the player shall get the amount of wager that was covered by the dealer.

(6) If the dealer does not have a "natural," play continues with the player on the dealer's immediate left. The dealer deals cards face up, one by one, as that player calls for them. The player's aim is to total 21 or as close to 21 without going over. When a player is satisfied with their total, they shall declare "stand". If more cards are wanted, the player declares "hit". If a player goes over a 21 point count, the hand is a "bust" and they must turn the hand down, while the dealer collects the bet.

(7) The dealer does the same with each remaining player. Any player who stands must wait while the dealer draws his or her cards. If the dealer goes bust, each standing player is paid the amount of their wager. If the dealer "stands," the down card is turned up and players whose totals are higher than the dealer's are paid. The dealer collects from any player whose total is less. Action is always to the left of the dealer. Any frozen wagers needing to be "made up" will be done in order, to the left of the dealer from losing wagers the dealer collects. Should the dealer not be able to cover all frozen wagers then those frozen wagers are released to the winning players and the deal passes immediately to the left at which time the new dealer shall announce their bank and shuffle the cards. The same shall apply if the dealer has no money in the bank. The dealer may, if allowed by house rule, add to their bank in between hands.

(8) Upon completion of the shuffle, the player to the right of the dealer shall cut the cards. After the cards have been placed into the shoe the dealer shall insert a blank card approximately three quarters of the way through the deck(s). A dealer may deal from the shoe until he/she reaches the blank card. After the blank card appears, the dealer may continue dealing that hand, but will not start a new hand. The deal must then pass to the player on the dealer's immediate left. The discards may only be reshuffled to complete the last hand.

(9) Once wagers are placed and covered on the bet line, no player, including the dealer, may touch those wagers until the winner has been determined. Any player touching the wagers may be ruled to have fouled and their wager forfeited.

(10) Any player who lifts their cards up from the table or slides their cards out of their own playing area shall be ruled to have fouled and their wager may be forfeited.

(11) No player may "buy" the bank. The deal must pass around the table to the left and no player can authorize another player to deal for him or her. A new player entering the game may not participate as the dealer/banker until at least two other players have dealt. If a player does not wish to deal and passes the deal, that player may not play in the first two hands conducted by the next dealer. A dealer may after completing one full hand, pass the deal and be able to participate in the next hand.

(12) The dealer must stand on 17 or above and must take hits on 16 or below. If a dealer has an ace, it shall be counted as 11 (eleven) if it brings his or her total to 17 or more (but not over 21).

(13) If a player's first two cards total exactly 9, 10 or 11, they may double their wager and receive one more card. The player must then stand on those three cards. If the dealer's bank is insufficient to cover a double down wager, the player may wager an amount equal to the dealer's remaining bank. The dealer must then cover that wager. If the dealer has no bank then a player may not double down.

(14) If the dealer's face-up card is a ten, face card or ace, he/she may look at their face-down card to see if they have a natural; if his/her face-up card is anything else, they may not look at their face-down card until their turn comes to draw. Should the dealer violate this rule their hand may be ruled to have been fouled, which shall result in forfeiture of all remaining dealer wagers.

(15) If a player's first two cards are a pair, then that player may split the pair into two separate hands. The amount of the player's original bet then goes on one of the cards, and they must place an equal amount as a bet on the other card. When this player's turn to draw comes, they receive an up-card for each hand and then play each hand in order. If the dealer does not have enough in the bank to cover the doubled bet, the dealer must cover an amount equal to the value of their remaining bank. The player then has the option to divide the wagers in any manner between the two hands, not to exceed the allowable limit per hand. If the dealer has no bank then the player may divide their wager in any manner between the two hands. If a player's

original bet was a minimum allowed in that game then they may not split their pair. A player may only split a pair once.

(16) The dealer will pay only on the value of the cards held by the player and shall not pay on the number of cards received or the card sequence.

(17) There shall be no credit or I.O.U. issued by any player or management.

NEW SECTION

WAC 230-60-100 INTERPRETIVE AND POLICY STATEMENTS (1) The commission shall prepare interpretive or policy statements to advise the public of the commission's current opinions, approaches and likely course of action. These statements shall be prepared when it is not feasible or practicable to adopt rules.

(2) Persons interested in obtaining copies of interpretive or policy statement shall write to the Director requesting they receive copies of all statements issued by the agency.

(3) The commission shall prepare a roster of persons who have requested copies of interpretive or policy statements. Whenever a interpretive or policy statement is issued the commission shall send a copy of the statement to each person listed on the roster. The roster shall be updated annually and eliminate those persons who do not indicate a desire to continue on the roster.

(4) Persons requesting the interpretive or policy statements shall pay for the mailing costs and the following cost per sheet of paper:

- (a) \$.25 per page for the first ten pages;
- (b) \$.10 per page for any pages thereafter.

Purpose: To implement the new Administrative Procedure Act, chapter 34.05 RCW.

Citation of Existing Rules Affected by this Order: Amending WAC 230-50-010, 230-50-012, 230-50-020, 230-50-030, 230-50-060, 230-50-150, 230-50-160, 230-50-190, 230-50-200, 230-50-210, 230-50-230, 230-50-300, 230-50-330, 230-50-390, 230-50-550, 230-50-610, 230-50-630, 230-50-800 and 230-50-850; new sections WAC 230-02-035, 230-50-225, 230-50-560, 230-50-570 and 230-50-580; and repealing WAC 230-04-123, 230-04-130, 230-50-070, 230-50-140, 230-50-220, 230-50-240, 230-50-250, 230-50-260, 230-50-270, 230-50-280, 230-50-290, 230-50-430, 230-50-600, 230-50-620, 230-50-810, 230-50-820, 230-50-830, 230-50-950 and 230-60-015.

Statutory Authority for Adoption: Chapter 34.05 RCW.

Pursuant to notice filed as WSR 89-19-084 on September 20, 1989.

Effective Date of Rule: Thirty-one days after filing.
November 20, 1989

Ronald Bailey
for Frank L. Miller
Deputy Director

Reviser's note: The material contained in this filing will appear in the 90-01 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 89-24-002

PERMANENT RULES

GAMBLING COMMISSION

[Order 201—Filed November 27, 1989, 8:56 a.m.]

Date of Adoption: November 15, 1989.

Purpose: Create a system of regulation necessary to ensure the proper operation and control of electronic cranes. To provide a fee schedule for electronic crane operation.

Citation of Existing Rules Affected by this Order: Amending WAC 230-04-110, 230-04-120, 230-04-190, 230-04-201, 230-08-010, 230-08-017, 230-08-025, 230-08-140, 230-08-150, 230-20-605 and 230-20-630; and new sections WAC 230-02-022, 230-04-124, 230-08-060, 230-08-180 and 230-20-670.

Statutory Authority for Adoption: RCW 9.46.070 (4), (11) and (14).

Pursuant to notice filed as WSR 89-19-083 on September 20, 1989.

Effective Date of Rule: Thirty-one days after filing.
November 20, 1989
Ronald Bailey
for Frank L. Miller
Deputy Director

Reviser's note: The material contained in this filing will appear in the 90-01 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 89-24-004

WITHDRAWAL OF PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed November 27, 1989, 9:36 a.m.]

The proposed rule amending WAC 232-12-081 Checking stations—Inspection of game and licenses, filed on July 3, 1989, WSR 89-14-106, and continued on August 23, 1989, WSR 89-17-145, is withdrawn.

Lee S. Smith
Administrative Regulations Officer

WSR 89-24-005

WITHDRAWAL OF PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed November 27, 1989, 9:39 a.m.]

The proposed rule amending WAC 232-12-001 Definition of terms, filed on July 3, 1989, WSR 89-14-107, is withdrawn.

Lee S. Smith
Administrative Regulations Officer

WSR 89-24-003

PERMANENT RULES

GAMBLING COMMISSION

[Order 200—Filed November 27, 1989, 8:59 a.m.]

Date of Adoption: November 15, 1989.

WSR 89-24-006**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF WILDLIFE**

[Filed November 27, 1989, 9:43 a.m.]

The proposed rule repealing the following obsolete and expired WAC sections, WAC 232-28-20401, 232-28-206, 232-28-209, 232-28-21201, 232-28-404, 232-28-60101, 232-28-60102, 232-28-604, 232-28-60415, 232-28-605, 232-28-60508 and 232-28-61610, filed on July 3, 1989, WSR 89-14-108, is withdrawn.

Lee S. Smith
Administrative Regulations Officer

WSR 89-24-007**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF WILDLIFE**

[Filed November 27, 1989, 9:46 a.m.]

The proposed rule amending WAC 232-12-057 Hunting with aid of aircraft, boats or other vehicles, filed on July 3, 1989, WSR 89-14-109, and continued on August 23, 1989, WSR 89-17-144, is withdrawn.

Lee S. Smith
Administrative Regulations Officer

WSR 89-24-008**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF WILDLIFE**

[Filed November 27, 1989, 9:50 a.m.]

The proposed rule repealing the following obsolete WAC sections, WAC 232-12-194, 232-12-197, 232-12-207 and 232-12-221, filed on July 3, 1989, WSR 89-14-110, is withdrawn.

Lee S. Smith
Administrative Regulations Officer

WSR 89-24-009**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF WILDLIFE**

[Filed November 27, 1989, 9:52 a.m.]

The proposed rule repealing the obsolete and expired WAC section, WAC 232-12-827, filed on July 3, 1989, WSR 89-14-112, is withdrawn.

Lee S. Smith
Administrative Regulations Officer

WSR 89-24-010**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF WILDLIFE**

[Filed November 27, 1989, 9:55 a.m.]

The proposed rule adopting a new chapter 232-02 WAC, Organization; and repealing the following WAC sections, WAC 232-12-800, 232-12-804 and 232-12-807, filed on July 5, 1989, WSR 89-14-127, is withdrawn.

Lee S. Smith
Administrative Regulations Officer

WSR 89-24-011**NOTICE OF PUBLIC MEETINGS
TRANSPORTATION IMPROVEMENT BOARD**

[Memorandum—November 22, 1989]

**MEETING NOTICE FOR
DECEMBER 1989 AND JANUARY 1990
TRANSPORTATION IMPROVEMENT BOARD
TRANSPORTATION BUILDING
OLYMPIA, WASHINGTON 98504**

Work session, 9:30 a.m. – 5:00 p.m., Thursday, December 14, 1989, in Olympia, at the Transportation Building, Room 1A19.

TIB meeting, 9:00 a.m., Friday, December 15, 1989, in Olympia, at the Transportation Building, Commission Board Room.

Work session, 9:30 a.m., Thursday, January 18, 1990, field review of proposed TIA projects in South King County.

TIB meeting, 9:00 a.m., Friday, January 19, 1990, at the Bothell City Council Chambers, 18305 101st N.E.

WSR 89-24-012**RULES OF COURT****STATE SUPREME COURT**

[November 2, 1989]

In Re: ESTABLISHMENT OF NO. 25700-A-443
TEMPORARY PROCEDURES FOR ORDER
EXPERIMENTAL USE OF VIDEOTAPE ORDER
EQUIPMENT TO RECORD COURT
PROCEEDINGS.

1. SCOPE OF ORDER

The provisions of this Order apply only when videotape equipment has been used to record the trial court proceeding and are limited to appeals from those counties where the appeal is to Division II or Division III of the Court of Appeals. This Order supersedes the provisions of Orders 25700-A-400 and 25700-A-419. This is a temporary Order and terminates pursuant to Section 4E.

2. TRIAL COURT PROCEDURES

A. Official Record. The official record of a videotaped trial court proceeding shall consist of two (2) videotape recordings, recorded simultaneously. One shall be labeled the "A" tape and the other the "B" tape.

B. Identification of the Tapes. The trial court shall label both the "A" tape and the "B" tape on the side and establish an indexing system to track and number tapes. The Office of the Administrator for the Courts is responsible for establishing standards for identifying tapes and for ensuring compliance with those standards.

The label on tapes of trials must include the tape number, the case name and number and the date of the proceeding. The label on miscellaneous tapes must include the tape number and the beginning date of proceedings included on the tape.

C. Certifying the Record. Both the "A" tape and the "B" tape shall bear a label on the top portion of the tape certifying that it is "a full, true and correct record of the proceedings", and the label shall be dated and signed by a person authorized by the trial judge to certify the record. If the tape is a copy of the original record of proceedings, the label must certify it is a "copy of a full, true and correct record" and this label must also be dated and signed by a person authorized by the trial judge to certify copies of tapes.

D. Recording Tape Numbers in Case Files. Each case file shall include the number of the tapes that contain any portion of the proceedings of that case. If any of the listed tapes also include other actions, the information in the file should include the time on the tape where the proceeding in that file started and ended. A copy of the trial log, as outlined below in 2E, can be included in the file to satisfy this requirement.

E. Exhibit List; Trial Log. The trial judge or a designee shall keep a written log of what activity is on each tape. At a minimum the log information for a trial must include the case name and number and tape references to the following: Identification of direct, cross, redirect and recross examination of witnesses; offering and rulings on exhibits; motions; instructions of the court; instructions requested by parties; rulings of the court; and any other references that the court feels are appropriate. The tape references shall include the date, hour, minute and second as shown on the tape.

If the log is for a tape containing numerous miscellaneous actions, the case name and number, type of proceeding, and time of each proceeding must be noted on the log.

The Office of the Administrator for the Courts shall provide a form with a suggested format for maintaining the log and shall review logs periodically for compliance with the provisions in this section.

A copy of the trial log shall be provided with each duplicated tape made for the parties. One copy of the log shall be transferred to the clerk's office with the "A" tape and one copy shall remain with the court with the "B" tape. A copy of the log may also be put into each

case file listed in a log to satisfy the requirement above of 2D to file tape numbers of each case.

F. Custody of the Tapes. The "A" copy shall be transferred to the clerk's office and the trial court shall retain the "B" copy, except in those counties where the trial court retains custody of both tapes. The two copies shall be stored separately.

G. Retention of Tapes. If no appeal has been taken one year after disposition of a case, the "B" tape may be erased and recycled.

H. Tape is a Public Record. The tape is a public record unless specifically sealed by the court.

I. Exhibits. By pre-trial order, the trial judge may require that at the time an exhibit is introduced into evidence, a photograph or photographs of the exhibit be submitted and included as part of the official record. The photograph(s) shall serve as part of the official record, and the exhibit itself may be returned for safekeeping to the custody of the party introducing the exhibit. The clerk shall not be required to certify the exhibit itself as part of the record on appeal, unless so ordered by the appellate court.

J. Depositions. In a court proceeding in which videotape equipment is being used to record the proceeding, the official record of a deposition admitted into evidence may be, in the trial judge's discretion, either the transcript of the deposition or a videotape recording of the deposition.

3. APPELLATE PROCEDURE

A. Notice of appeal. When the clerk's office sends a notice of appeal of a videotaped proceeding to the appellate court, the notice should be clearly stamped in red, or in another identifiable manner, "Appeal from a videotaped proceeding." This provides the appellate court with notice that the rules governing a videotaped appeal as outlined in this Order should be followed. This provision also applies when the court of appeals transfers an appeal to the Supreme Court.

B. Designation of clerk's papers. The clerk's office shall notify the appellate court when clerk's papers have been designated and shall forward a copy of the designation to the court of appeals. Appellant's brief is due 45 days after this designation and the appellate court needs the information in order to establish the date the brief is due.

C. Record on Review. The Rules of Appellate Procedure (RAP) requiring the report of proceedings to be transcribed in the form of a written record (RAP 9.1(b)) and the Rules pertaining to the transcription and statement of arrangements, content and notice of partial report of proceedings and issues (RAP 9.2 (a)(b), and (c)) are superceded and not applicable to appeals filed under this Order.

Instead, the record on review shall consist of the "A" tape that recorded the proceedings, except that if the case being appealed involves numerous proceedings recorded on portions of multiple tapes, a certified copy of

all of the proceedings being appealed, re-recorded in sequence, will be accepted as the record on review.

If multiple proceedings are re-recorded for transfer to the appellate court, they must be recorded at the "SP" mode, which provides for a maximum of two hours of activity on a tape. This will ensure that the quality of the dubbed copy will be the same as the original copies.

D. Transferring the record to Appellate Court. The clerk's office is responsible for transmitting the record on review to the appellate court. The party seeking review has no responsibility to order or to obtain a record for the appellate court.

When a proceeding is appealed, the clerk's office shall refer to the case file to determine which tapes include proceedings that are being appealed. The clerk's office shall transfer the "A" set of tapes when the tapes include only those proceedings being appealed. If there are portions of the case being appealed on several tapes, the clerk's office shall arrange with the court to re-record these portions, in sequence, on another tape(s), and the tapes should be certified at as outlined above in 2C.

To avoid accidental erasure, the plastic tab on the left-hand side of the tape should be broken off prior to forwarding tapes to the appellate court.

The tapes should be forwarded to the appellate court along with the clerk's papers and exhibits.

E. Returning tapes to trial court. When mandating a case, the "A" tapes should be returned to the trial court.

F. Duplication of the Tapes. The trial court shall arrange for the duplication of tapes for use by counsel in preparing an appeal. Each party is responsible for contacting the court and obtaining tapes. The court shall charge no more than \$40 for each duplicate videotape requested.

In cases where the requesting party has been declared indigent, the trial court can recover its costs for providing tapes to indigent persons. A statement of the charges should be submitted to the appellate court when the tapes are submitted.

G. Transcripts. No transcript of court proceedings will be part of the record on appeal unless ordered by the trial court pursuant to RAP 9.5, ordered by the appellate court pursuant to RAP 9.10, under Section 4A of this order, or included in the appendix of a brief as provided in 3H of this order. Any exception to this provision must be granted by the judge who presided over the proceedings being appealed.

If a party wants to request an exception to this provision, the request must be made to the trial judge, who is hereby authorized to suspend the provisions of this Order to allow for transcription of part or all of a proceeding. The motion must specify which portions of the proceeding should be transcribed and a justification for the transcription.

In those cases where a transcript is authorized and the requesting party is indigent, the transcript will be paid for by the state at the same rate paid to court reporters.

Typed transcripts must bear certification by the transcriber that states, "I hereby certify that this is a true and correct record of the proceedings. I do further certify that I am in no way related to or employed by any party in this matter, nor to any counsel, nor do I have any interest in this matter." The signature must be notarized.

H. Briefs. The provisions of RAP 10.1 – 10.8 pertaining to briefs apply to appeals from a videotaped proceeding. However, this Order does alter RAP 10.2(a) regarding the timing of filing a brief and RAP 10.4(f) outlining how to reference the record. The changes are as follows:

(1) RAP 10.2(a): Because there is no report of proceedings to be filed, the brief of an appellant or petitioner shall be filed in the appellate court within 45 days after the party seeking review has filed the designation of clerk's papers and exhibits.

(2) RAP 10.4(f): When referring to the record in the brief, the references are made to a segment of the videotape recording. This reference must include the word "TAPE", the number of the videotape (there may be several tapes for one trial) and the month, day, year, hour, minute and second when the reference begins on the tape. For example: (TAPE No. 1, 10/27/87; 14:24:05) The date and time references on the screen are shown exactly as this procedure indicates.

I. Evidentiary Appendix. An appendix of the evidence (hereinafter referred to as evidentiary appendix) consisting of typewritten portions of the proceedings may be attached to a brief on appeal without filing an exception as outlined in 3F above. An evidentiary appendix shall contain transcriptions of only those parts of the videotape recording that support the specific issues or contentions raised in a brief on appeal, or that relate to the question of whether an alleged error was properly preserved for appellate review. This limitation requires that only those portions of a witness's testimony that meet this criteria be transcribed.

(1) **Organization of Appendix.** Each evidentiary appendix shall include an index that lists each issue on appeal, identifies which portions of the appendix support each issue and includes the tape reference for each portion. Only that part of a witness's testimony that relates to the issue should be included. Every transcribed portion of the proceedings in the appendix must be listed under one of the issues. The index should also include an alphabetical list of witnesses whose testimony is transcribed in the appendix, listing the tape references with the pages of the appendix where each witness' testimony begins and ends. The name of each witness should be included at the place in

the appendix where the testimony of that witness begins.

(2) **Purpose of Appendix; Sanctions.** The purpose of this evidentiary appendix is to enable the appellate court to review the briefs in a coherent way. Inclusion of transcript unnecessary to the disposition of the case imposes a burden on both the parties and the court and may subject counsel to sanctions as set forth below:

(a) The appellate court may deny costs to, or assess costs against, a party who has been responsible for the insertion of unnecessary material into an evidentiary appendix. Moreover, any counsel who so multiplies an appendix in any brief as to increase delay or costs unreasonably may be required by the court to satisfy personally such excess costs, and may be subject to the imposition of sanctions as set forth in RAP 18.9.

(b) The appellate court may strike any part or all of an evidentiary appendix, or brief to which it is attached, which has been determined by the appellate court to contain unnecessary material.

4. FURTHER PROVISIONS

A. **Transcription for Appellate Court.** The appellate court may arrange to have transcribed any portion of the videotape recordings it determines is necessary for a decision in the case. The costs of transcriptions under this paragraph shall be certified by the Administrator for the Court, or a designee, and shall be paid by the parties to the appeal in such proportions as directed by the appellate court requesting the transcription.

B. **Establishment of Local Procedures.** The presiding judge of a superior court in which videotape equipment is used to record court proceedings may, by court order, establish further procedures relating to videotape recording of court proceedings, provided such procedures do not conflict with the provisions of this order, or any statute or court rule.

C. **Effect of Order on Practice in Court of Appeals.** Nothing in this order shall be construed to supersede the provisions of RAP 5.5.

D. **Dissemination of this Order.** Each judge using videotape equipment to record court proceedings, or a designee, shall provide a copy of this order to each attorney who handles a case in the judge's court. To ensure that each party seeking review is notified, a copy shall be included with the videotape and log given to the parties.

E. **Termination.** Authority extended under this rule will automatically terminate on June 30, 1990, except for any proceedings that begin prior to the termination of this Order.

DATED at Olympia, Washington this 2nd day of November, 1989.

Keith M. Callow

Robert F. Utter

Robert F. Brachtenbach Andersen, J.

James M. Dolliver Charles Z. Smith

Fred H. Dore B. Durham

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

WSR 89-24-013 NOTICE OF PUBLIC MEETINGS LEGAL FOUNDATION OF WASHINGTON [Memorandum—November 27, 1989]

The following are the dates and places of meetings scheduled during 1990 by the board of trustees of the Legal Foundation of Washington for publication by the Code Reviser as required by the Washington Supreme Court.

January 12, 1990	Sheraton Hotel	Seattle	2 - 5 p.m.
March 23-24, 1990	Battelle Conference Center	Seattle	
May 10, 1990	Westwater Inn	Olympia	
September 13, 1990	Spokane Sheraton Hotel	Spokane	
October 26, 1990	Seattle-Tacoma Airport		
November 30, 1990	Seattle-Tacoma Airport		

WSR 89-24-014 PROPOSED RULES ENERGY FACILITY SITE EVALUATION COUNCIL [Filed November 29, 1989, 9:55 a.m.]

Original Notice.

Title of Rule: Chapter 463-30 WAC, Procedure—Contested case hearings; and chapter 463-34 WAC, Procedure—Rule-making and declaratory rulings.

Purpose: To bring Title 463 WAC into conformance with the Administrative Procedure Act.

Statutory Authority for Adoption: RCW 80.50.040.

Statute Being Implemented: Chapter 34.05 RCW.

Summary: The existing rules need to be updated to conform with the changes to the Administrative Procedure Act, formerly chapter 34.04 RCW, now chapter 34.05 RCW, which governs the process for conducting contested cases, rule-making and declaratory changes.

Reasons Supporting Proposal: All state agencies were directed by the legislature to review their rules and bring them into conformance with the changes to the Administrative Procedure Act.

Name of Agency Personnel Responsible for Drafting: Rules Review Committee, 4224 6th Avenue, Rowesix, Lacey, 459-6490; Implementation: William L. Fitch, Executive Secretary, 4224 6th Avenue, Rowesix, Lacey, 459-6490; and Enforcement: Curtis Eschels, Chairman, 4224 6th Avenue, Rowesix, Lacey, 459-6490.

Name of Proponent: Energy Facility Site Evaluation Council, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The proposed action has no budget impact except for previously budgeted staff time and cost of printing the council's revised rule books.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See previous information.

Proposal Changes the Following Existing Rules: [No information supplied by agency.]

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Energy Facility Site Evaluation Council, 4224 6th Avenue, Rowesix, Building #1, Lacey, WA, on January 22, 1990, at 1:30 p.m.

Submit Written Comments to: William L. Fitch, Executive Secretary, Mailstop PY-11, Olympia, Washington 98504, by January 12, 1990.

Date of Intended Adoption: January 22, 1990.

November 16, 1989

Bill Fitch
Executive Secretary

Chapter 463-30 WAC

PROCEDURE—((CONTESTED CASE HEARINGS)) ADJUDICATIVE PROCEEDINGS

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-010 PURPOSE AND SCOPE OF THIS CHAPTER. The purpose of this chapter is to set forth procedures by which ((contested case hearings)) adjudicative proceedings are to be conducted before the council under chapter 34.05 RCW. Except as indicated herein, the uniform procedural rules set forth in chapter ((+ 08)) 10-08 WAC shall not apply to ((contested case hearings)) adjudicative proceedings before the council.

AMENDATORY SECTION (Amending Order 82-2, filed 4/30/82)

WAC 463-30-020 COUNCIL CONDUCTED HEARINGS AND ADMINISTRATIVE LAW JUDGES. The council may conduct ((contested case hearings)) adjudicative proceedings pursuant to chapters 34.05 and 80.50 RCW or it may utilize an administrative law judge provided by the office of administrative hearings pursuant to chapter 34.12 RCW. In the event the council elects to conduct the hearing, a presiding officer shall be appointed and the hearing shall be governed by the regulations and procedures contained in this chapter and chapter 34.05 RCW, as applicable.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-050 STATUS OF AGENCIES AND AGENCY MEMBERS IN ((CONTESTED CASES)) ADJUDICATIVE PROCEEDINGS. All state agencies having members on the council are deemed to be parties to any ((contested case)) adjudicative proceeding before the council. For purposes of any ((contested case hearing)) adjudicative proceeding, however, the agency representative on the council shall be deemed to be a member of the council and not a member of the agency. It shall be proper for the agency representative on the council to ((maintain liaison with)) communicate with employees of the represented agency, excepting those agency employees ((actively involved in the contested case proceedings)) who have participated in the proceeding in any manner or who are otherwise disqualified by RCW 34.05.455.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-060 DEFINITIONS—PERSONS AND PARTIES. The terms "person" and "party" when used in this chapter shall

have the following meanings. The term "person" shall be defined according to RCW 80.50.020(3). The term "party" shall mean and be limited to the following:

- (1) The "applicant" as defined in RCW 80.50.020(1).
- (2) Each "member agency" as defined in RCW 80.50.020(16).
- (3) The "counsel for the environment" as defined in RCW 80.50.020(13).

(4) Each person admitted to ((a contested case)) an adjudicative proceeding as an "intervenor," ((provided that the council order granting intervention specifically provides that such person shall be a party to the proceeding, and provided further that such person shall be)) is a party only for ((such)) the purposes and subject to ((such)) any limitations and conditions ((as may be)) specified in the council order granting intervention.

AMENDATORY SECTION (Amending Order 81-1, filed 3/11/81)

WAC 463-30-080 COMMENCEMENT OF ((CONTESTED CASE)) ADJUDICATIVE PROCEEDINGS. ((Contested case)) Adjudicative proceedings ((pursuant to RCW 80.50.090(3))) shall ((be commenced)) commence upon issuance of a formal notice of hearing ((by the council)) or prehearing conference. The notice shall be served upon all parties at least twenty days in advance of the initial hearing date, unless the council finds that an emergency exists requiring the hearing or prehearing conference to be held upon less notice.

The time and place of continued hearing sessions may also be set:

- (1) Upon the record without further written notice to the parties; or
- (2) By letter from the executive secretary of the council; or
- (3) By letter from the presiding officer.

In such instances, twenty days' prior notice is not required.

NEW SECTION

WAC 463-30-085 PROVISIONS REGARDING LIMITED ENGLISH-SPEAKING AND HEARING IMPAIRED PERSONS. Provisions in WAC 10-08-040 (2) and (3)(c), 10-08-045, 10-08-150, and 10-08-160(2) relating to procedures involving limited English-speaking or hearing impaired persons are incorporated in these rules by this reference.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-090 PUBLICITY—COMMENCEMENT OF ((CONTESTED CASE)) ADJUDICATIVE PROCEEDINGS. Upon the filing of an application for certification, the council shall prepare an appropriate statement for dissemination to the news media which shall: (1) Describe all actions taken to date regarding the proposed site, and (2) state clearly that any person may be allowed to present timely written or oral argument for or against the proposed site to be certified and that advance ((written)) notice within a reasonable time shall be required of persons who desire ((to argue orally)) status as intervenors in accordance with WAC 463-30-400.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-100 APPEARANCE AND PRACTICE BEFORE THE COUNCIL. ((In determining who shall be entitled to appear and practice before the council, the council will be guided by the provisions of WAC 1-08-040 through 1-08-060.)) (1) General. In all proceedings in which pleadings are filed and a hearing is held involving the taking of testimony on a record subject to review by the courts, the following persons may appear in a representative capacity:

- (a) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington;
- (b) Attorneys at law duly qualified and entitled to practice before the highest court of any other state;
- (c) Upon permission of the presiding officer, an officer or employee of a party or person seeking party status.

The presiding officer may expel a person who does not have the requisite degree of legal training, experience, or skill to appear in a representative capacity.

(2) Notices of appearance and withdrawal of attorneys. Attorneys or other authorized representatives appearing on behalf of a party or withdrawing from a proceeding shall immediately so notify the council and all parties to the proceeding.

(3) Unethical conduct. All persons appearing in proceedings before the council in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any representative fails to conform to these standards,

the council may decline to permit the person to appear in a representative capacity in any proceeding before the council.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-120 FILING AND SERVICE((—BY WHOM SERVED)). ((The council shall cause to be served all orders, notices, and other papers issued by it, together with any other papers which it is required by law to serve. Every other paper shall be served by the party filing it.)) (1) Filing. Filing of any document shall be deemed complete only upon receipt by the executive secretary or other authorized agent of the council. Receipt in the council's telefax machine, or similar device, does not constitute filing. Unless in a particular case the council specifies a different number of copies, every pleading submitted to the council shall be filed with two copies. Filing a document with the council does not constitute service upon the office of the attorney general or any other party. Likewise, service on the office of the attorney general does not constitute a filing with the council.

(a) Applications. Applications for a site certificate shall be filed in the manner prescribed by the rules governing such applications.

(b) Other pleadings. All pleadings shall be legible and a copy shall be served upon each party to the proceeding.

(2) Service.

(a) Service by parties. Service of pleadings by parties shall be made by delivering one copy to each party in person, by mail, properly addressed with postage prepaid, by commercial parcel delivery company properly tendered with fees prepaid, or by telefacsimile transmission, where originals are mailed simultaneously. Except as otherwise provided, when any party has appeared by attorney or other authorized representative, service upon such attorney or representative will be deemed valid service upon the party of all future pleadings before the council. Service of pleadings by mail shall be complete when a true copy of the document is properly addressed and stamped and deposited in the United States mail. Service by commercial parcel delivery company shall be complete when accepted for delivery by the company.

(b) Service by the council. All notices, findings of fact, decisions, and orders required to be served by the council may be served in person, by mail, by commercial parcel delivery company, properly tendered with fees prepaid, or by telefacsimile transmission, when originals are mailed simultaneously. Service of documents shall be complete when a true copy of the document, properly addressed and stamped, is deposited in the United States mail with first class postage affixed, or accepted for delivery by the parcel delivery company.

(c) Certificate of service. There shall appear on the original of every pleading when filed with the council in accordance with this subsection, either an acknowledgment of service, or the following certificate:

"I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by authorized method of service pursuant to WAC 463-30-120 (2)(a)."

Dated at this day of
(signature)

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-190 ((LIMITED)) DISCOVERY PRACTICE. ((Formal discovery devices in contested case proceedings shall consist of subpoenas, depositions, interrogatories, and requests for production.)) Discovery is available when permitted by the presiding officer and shall be conducted in accordance with RCW 34.05.446.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-200 SUBPOENAS—PRACTICE. ((The council practice regarding subpoenas shall substantially conform to the provisions of WAC 1-08-150 through 1-08-220.)) (1) Subpoenas shall be issued and enforced, and witness fees paid, as provided in RCW 34.05.446.

(2) Every subpoena shall identify the party causing issuance of the subpoena and shall state the name of the agency and the title of the proceeding and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under his or her control at the time and place set for the hearing.

(3) A subpoena may be served by any suitable person over eighteen years of age, by exhibiting and reading it to the witness, or by giving him or her a copy thereof, or by leaving such copy at the place of his

or her abode. When service is made by any other person than an officer authorized to serve process, proof of service shall be made by affidavit.

(4) The presiding officer, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may:

(a) Quash or modify the subpoena if it is unreasonable and oppressive; or

(b) Condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(5) No subpoena shall be issued or given effect to require the attendance and testimony of, or the production of evidence by, any member of the council or any member of the council staff in any proceeding before the council.

(6) The council shall only be responsible for paying the witness fees of the witnesses which it subpoenas. Each subpoena shall bear the name of the party requesting or issuing the subpoena and the party responsible for paying the witness fees.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-230 OFFICIAL NOTICE((—MATTERS OF LAW)). (1) Upon written or oral motion((;)) the council may officially notice ((any matter of law. The council will be guided by WAC 1-08-370));

(a) Any judicially cognizable facts;

(b) Technical or scientific facts within the council's specialized knowledge; and

(c) Codes or standards that have been adopted by an agency of the United States, of this state or of another state, or by a nationally recognized organization or association.

(2) Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed and the sources thereof, including any staff memoranda and data, and they shall be afforded an opportunity to contest the facts and material so noticed.

(3) A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-240 OFFICIAL NOTICE—((MATERIAL FACTS)) EVALUATION OF EVIDENCE. ((Upon written or oral motion, the council may officially notice relevant facts in the absence of controverting evidence. In implementing this rule, the council will be guided by WAC 1-08-380)) WAC 463-30-230 shall not be construed to preclude the council from utilizing its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-250 STIPULATIONS AND ((ADMISSIONS OF RECORD)) SETTLEMENT. ((The existence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received upon behalf of such party. Any party bound by a stipulation or admission of record may withdraw the same by showing that it was made inadvertently or under a bona fide mistake of fact and that withdrawal will not unjustly prejudice the rights of other parties to the proceeding.)) (1) Stipulations are encouraged. The parties to any adjudicative proceeding before the council may, by stipulation in writing filed with the council or entered into the record, agree upon the facts or any portion thereof involved in the proceeding. This stipulation, if accepted by the council, shall be binding upon the parties thereto and may be used by the council as evidence at the hearing. The council may reject the stipulation or require proof by evidence of the stipulated facts, notwithstanding the stipulation of the parties.

(2) Before or after a formal hearing, parties to a proceeding may enter into discussions leading to a voluntary settlement. In furtherance of a voluntary settlement, the council may invite the parties to confer among themselves or with a designated person. Settlement conferences shall be informal and without prejudice to the rights of the parties. No statement, admission, or offer of settlement made at a settlement conference shall be admissible in evidence in any formal hearing before the council. Any resulting settlement or stipulation shall be stated on

the record or submitted in writing and is subject to approval by the council.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-270 PREHEARING CONFERENCE((S PRIORITY TO HEARING)). ((On its own motion or at the request of a party the council may direct the parties to appear at a specified time and place for prehearing conferences regarding any scheduled hearing. Primary emphasis shall be on the simplification of issues prior to hearing. In the discretion of the council, the following matters may also be taken up:

- (1) The necessity of amendments to the pleadings;
- (2) The possibility of obtaining stipulations, admissions of facts, or documents;
- (3) The limitation of the number of expert witnesses;
- (4) Other matters which may aid in disposition of the proceeding, including scheduling of the hearing and determination of sequence of the subject matter.)) (1) The presiding officer upon his or her own motion or upon request of a party may direct the parties or their representatives to engage in a prehearing conference or conferences to consider:
 - (a) Simplification of issues;
 - (b) The necessity or desirability of amendments to the pleadings;
 - (c) The possibility of obtaining stipulations, admissions of fact, and admissions of the genuineness of documents which will avoid unnecessary proof;
 - (d) Limitations on the number and consolidation of the examination of witnesses;
 - (e) Procedural matters;
 - (f) Distribution of written testimony and exhibits to the parties prior to the hearing;
 - (g) The disposition of petitions for leave to intervene in the proceeding filed pursuant to WAC 463-30-400 may be ruled upon at a prehearing conference;
 - (h) Such other matters as may aid in the disposition or settlement of the proceeding including scheduling the hearing and determination of the sequence of the subject matter.
- (2) Prehearing conferences may be held by telephone conference call or at a time and place specified by the presiding officer.
- (3) Following the prehearing conference, the presiding officer shall issue an order reciting the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties concerning all of the matters considered. If no objection to such notice is filed within ten days after the date such notice is mailed, it shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.
- (4) In any proceeding the presiding officer may, at his or her discretion, conduct a conference prior to the taking of testimony, or may recess the hearing for such conference, for the purpose of carrying out the purpose of this section. The presiding officer shall state on the record the results of such conference.
- (5) Nothing in this section shall be construed to limit the right of the council to order a prehearing conference or other settlement procedure prior to issuance of a notice of hearing.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-300 HEARING SCHEDULE GUIDELINES. In any ((contested case)) adjudicative site certification proceeding ((on certification)) the council shall, after consultation with the parties schedule the hearing process so that the following general subject areas may be heard separately at specified times, to the extent they are in issue:

- (1) The description of the particular energy facility and the proposed site.
 - (2) Consistency of the proposal with zoning and land use regulations.
 - (3) Physical site suitability and related safety considerations.
 - (4) NPDES permit or permits.
 - (5) On-site and local impacts (physical): Such as aquatic, terrestrial and atmospheric.
 - (6) On-site and local impacts (societal): Such as housing, services, recreation, economics, transportation, health, and tax base.
 - (7) Peripheral area impacts (all categories).
 - (8) Adverse impacts minimization and consideration of conditions of certification.
- ((The council may alter the sequence in which the foregoing matters are to be considered in any given case.)) At the commencement of the

((contested case)) hearing, the council shall publicly announce the proposed schedule by which the hearing is to be conducted. ((It is the intent and purpose of this section to accomplish two equally important objectives. First, interested persons may avail themselves of the opportunity to attend and hear only those segments of the whole hearing process which are of keen personal interest. Second, applicants and other parties may determine the specific nature of council concern regarding critical issues without the necessity of proceeding through the entire hearing process.)) The council may alter the schedule.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-310 RULES OF EVIDENCE. ((In ruling upon evidentiary matters, the council shall be guided by the provisions of WAC 1-08-450 through 1-08-530.)) (1) All rulings upon objections to the admissibility of evidence shall be made in accordance with the provisions of RCW 34.05.452.

- (2) Where practicable, the presiding officer may order:
 - (a) That all documentary evidence which is to be offered during the hearing or portions of the hearing be submitted to the presiding officer and to the other parties sufficiently in advance to permit study and preparation of cross-examination and rebuttal evidence;
 - (b) That documentary evidence not submitted in advance as required in (a) of this subsection be not received in evidence in the absence of a clear showing that the offering party had good cause for his or her failure to produce the evidence sooner, unless it is submitted for impeachment purposes;
 - (c) That the authenticity of all documents submitted in advance in a proceeding in which such submission is required be deemed admitted unless written objection thereto is filed prior to the hearing, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.
 - (3) When portions only of a document are to be relied upon, the offering party shall identify the pertinent excerpts and state the purpose for which such materials will be offered. Only the excerpts, in the form of copies, shall be received in the record. However, the whole of the original documents, except any portions containing confidential material protected by law, shall be made available for examination and for use by all parties.
 - (4) No former employee of the council shall appear, except with the permission of the council, as an expert witness on behalf of other parties in a proceeding in which the former employee participated.
 - (5) The refusal of a witness to answer any question which has been ruled to be proper shall, in the discretion of the presiding officer, be grounds for striking all testimony of the witness.
 - (6) Any party bound by stipulation or admission of record may, at any time prior to closure of the record, be permitted to withdraw its agreement in whole or in part by showing to the satisfaction of the presiding officer that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

AMENDATORY SECTION (Amending Order 82-2, filed 4/30/82)

WAC 463-30-320 ((PROPOSED COUNCIL ORDER OR RECOMMENDATION)) ENTRY OF INITIAL AND FINAL ORDERS. ((In any case where a contested case proceeding is conducted by an administrative law judge or a panel of council members less than a majority, there shall be prepared a proposed council order, supported by written findings of fact and conclusions of law, copies of which shall be served upon all parties. The proposed order, findings and conclusions shall be transmitted to the council. In a site certification proceeding, the proposed council order shall be designated a proposed council recommendation and shall be styled accordingly.)) Every decision and order whether initial or final shall:

- (1) Be correctly captioned to identify the council and name of the proceeding;
- (2) Identify all parties and representatives participating in the proceeding;
- (3) Include a concise statement on the nature and background of the proceeding;
- (4) Contain appropriate numbered findings of fact meeting the requirements of RCW 34.05.461;
- (5) Contain appropriate numbered conclusions of law, including citations to statutes and rules relied upon;
- (6) Contain an initial or final order disposing of all contested issues;

(7) If applicable, contain a statement describing the parties' rights to reconsideration or other administrative relief.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-330 ((PROPOSED ORDER—EXCEPTIONS))
PETITION FOR REVIEW AND REPLIES. ((Any party of record may file exceptions to a proposed council order. Exceptions must be filed with the council and one copy must be served upon all parties of record within 10 days of the date of service of the proposed council order:)) (1) Any party to an adjudicative proceeding may file a petition for review of an initial order.

(2) The petition for review shall be filed with the executive secretary of the council within twenty days of the date of service of the initial order unless a different place and time limit for filing the petition are specified in the initial order in its statement describing available procedures for administrative relief. Copies of the petition shall be served upon all other parties or their representatives at the time the petition is filed.

(3) The petition for review shall specify the challenged portions of the initial order and shall refer to the evidence of record which is relied upon to support the petition.

(4) Any party may file an answer to a petition for review. The answer shall be filed with the executive secretary of the council within fourteen days after the date of service of the petition and copies of the answer shall be served upon all other parties or their representatives at the time the answer is filed.

NEW SECTION

WAC 463-30-335 RECONSIDERATION. A petition for reconsideration of a final order under RCW 34.05.470 shall be filed with the executive secretary of the council.

AMENDATORY SECTION (Amending Order 109, filed 11/16/76)

WAC 463-30-410 PARTICIPATION BY INTERVENOR. In general, it is the policy of the council to allow any intervenor broad procedural latitude. To the extent that the council determines that numerous intervenors might unduly delay the proceedings or prejudice the rights of existing parties, intervenor status may be conditioned upon assent by the prospective intervenor and counsel for the environment to ((allowing)) allow the counsel for the environment to act as lead counsel for the balance of the hearing, where the intervenor's interests more closely align with those of the counsel for the environment. Intervenor status may also be conditioned upon allowance of other parties to act as lead parties, where appropriate. The council reserves the right to prescribe other limitations and conditions, where appropriate. ((It is the intent and purpose of this section to prevent unwarranted proliferation of issues leading, in turn, to delay and prejudice to existing parties:))

AMENDATORY SECTION (Amending Order 78-9, filed 8/28/78)

WAC 463-30-420 PARTICIPATION BY COUNTY, CITY AND PORT DISTRICT REPRESENTATIVES. In any ((contested case to the extent that council action involves site certification matters relating to any county, city or port district or any combination thereof in which an energy facility is sought to be located, they shall be separated and divided to allow individual county, city and/or port district representatives to participate in discussion and county and city representatives shall vote only with regard to matters specifically affecting the concerned county or city. Port districts are nonvoting members of the council)) adjudicative site certification proceeding, designated council members representing local jurisdictions may discuss and, if authorized, vote only on issues affecting their jurisdictions. Issues shall be separated for purposes of discussion and voting.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 463-30-070 PLEADINGS—LEGIBILITY.
WAC 463-30-110 NOTICE AND OPPORTUNITY TO BE HEARD—TIME.
WAC 463-30-130 SERVICE—UPON WHOM SERVED.
WAC 463-30-140 WAIVER OF SERVICE—FILING.
WAC 463-30-150 SERVICE—METHOD OF SERVICE.

WAC 463-30-160	SERVICE—WHEN SERVICE COMPLETE.
WAC 463-30-170	PROOF OF SERVICE—FILING WITH COUNCIL.
WAC 463-30-180	PROOF OF SERVICE—METHOD.
WAC 463-30-210	DEPOSITIONS AND INTERROGATORIES—PRACTICE.
WAC 463-30-220	REQUEST FOR PRODUCTION.
WAC 463-30-260	DEFINITION OF ISSUES BEFORE HEARING.
WAC 463-30-290	PREHEARING CONFERENCE RECORD OF ACTION.
WAC 463-30-295	ORDERS REGARDING PROCEDURE, SCHEDULING AND SUBSTANTIVE ISSUES.
WAC 463-30-340	PROPOSED ORDER—CONTENTS OF EXCEPTIONS.
WAC 463-30-350	REPLIES TO EXCEPTIONS.
WAC 463-30-360	REPLIES TO EXCEPTIONS—CONTENTS.
WAC 463-30-370	EXCEPTIONS AND REPLIES TO EXCEPTIONS—BRIEFS AND ARGUMENTS.
WAC 463-30-380	ADOPTION OF PROPOSED ORDER.

Chapter 463-34 WAC PROCEDURE—PETITIONS FOR RULE MAKING AND DECLARATORY ((RULINGS)) ORDERS

AMENDATORY SECTION (Amending Order 107, filed 11/4/76)

WAC 463-34-010 PURPOSE AND SCOPE OF THIS CHAPTER. This chapter sets forth procedures to be followed in ((rule-making proceedings before the council and further specifies the manner in which declaratory rulings may be sought)) petitions for rule making and for declaratory orders pursuant to chapter ((34.04)) 34.05 RCW.

AMENDATORY SECTION (Amending Order 107, filed 11/4/76)

WAC 463-34-030 PETITIONS FOR RULE MAKING—((CONTENTS)) FORM, CONTENT, AND FILING. ((Where the petition requests amendment to or promulgation of a rule, the amended or proposed rule must be set out in full. The petition must also include the reasons for the request. Where the petition requests repeal of an existing and identified rule, the reasons for the proposed repeal must be set out in the petition:)) A petition for adoption, amendment, or repeal of a rule may be filed pursuant to RCW 34.05.330 and shall generally adhere to the following form:

(1) At the top of the page, centered, shall appear the wording "before the energy facility site evaluation council." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for rule making." Opposite the caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs:

(a) The first paragraph shall state the name and address of the petitioner and whether the petition seeks the adoption of a new rule or amendment or repeal of an existing rule.

(b) The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. If the petition seeks repeal of an existing rule, the rule proposed to be repealed shall be set forth in full.

(c) The third paragraph shall set forth concisely the reasons for the proposal and shall state the petitioner's interest in the subject matter of the rule. The petition should in subsequent paragraphs state a full explanation of reasons supporting the proposal.

(3) Petitions shall be dated and signed by the petitioner or its attorney. The original and two legible copies shall be filed with the council.

AMENDATORY SECTION (Amending Order 107, filed 11/4/76)

WAC 463-34-050 ((CONSIDERATION OF PETITION FURTHER HEARING)) PETITION FOR RULE MAKING—CONSIDERATION AND DISPOSITION. ((All petitions shall be considered by the council, which may order a hearing for the further consideration and discussion of the requested promulgation, amendment, or repeal of the rule:)) (1) Each petition for the adoption, amendment, or repeal of a rule shall be considered by the council, and the council may, in its discretion, solicit comments or invite discussion concerning the matter prior to disposition of the petition.

(2) If the council denies the petition, the denial shall be in writing and shall be served upon the petitioner.

AMENDATORY SECTION (Amending Order 107, filed 11/4/76)

WAC 463-34-060 DISPOSITION TIME. ((The council shall notify the petitioning party within 30 days of the disposition, if any, of the petition)) Within sixty days after the petition's submission, the council shall deny the petition in writing, stating its reasons for the denial or initiate rule-making proceedings.

AMENDATORY SECTION (Amending Order 107, filed 11/4/76)

WAC 463-34-070 ((PETITIONS FOR DECLARATORY RULINGS—POSSIBLE DISPOSITION)) DECLARATORY ORDERS—FORM, CONTENT, AND FILING. ((Any interested person may petition the council for a declaratory ruling. The council shall consider the petition and, within a reasonable time:

- ((1) Issue a nonbinding declaratory ruling; or
- ((2) Notify the person that no declaratory ruling is to be issued; or
- ((3) Set a reasonable time and place for oral hearing or submission of written evidence upon the matter.)) A petition for a declaratory order may be filed pursuant to RCW 34.05.240 and shall generally adhere to the following form:

((1) At the top of the page, centered, shall appear the wording "before the energy facility site evaluation council." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory order." Opposite the caption shall appear the word "petition."

((2) The body of the petition shall be set out in numbered paragraphs:

((a) The first paragraph shall state the name and address of the petitioning party.

((b) The second paragraph shall state all rules or statutes that may be brought into the issue by the petition.

((c) Succeeding paragraphs shall set out the facts relied upon and the reasons for granting its relief.

((d) The concluding paragraph shall specify the relief sought by 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 of the petition shall be filed with the council.

AMENDATORY SECTION (Amending Order 107, filed 11/4/76)

WAC 463-34-080 ((ORAL HEARING)) DECLARATORY ORDERS—PROCEDURAL RIGHTS OF PERSONS IN RELATION TO PETITION. ((If an oral hearing is conducted on a petition for declaratory ruling, the council shall, within a reasonable time thereafter:

- ((1) Issue a binding declaratory ruling; or
- ((2) Issue a nonbinding declaratory ruling; or
- ((3) Notify the person that no declaratory ruling is to be issued.))

If a petition for a declaratory order is set for specified proceedings under RCW 34.05.240 (5)(b), the agency shall give not less than seven days' advance written notice of the proceeding to the petitioner and all persons described in RCW 34.05.240(3). The notice shall specify the time, date, place, and nature of the proceeding and shall describe how interested persons may participate.

((2) The council may order that RCW 34.05.410 through 34.05.494 and chapter 463-30 WAC shall apply in a proceeding under this section.

AMENDATORY SECTION (Amending Order 107, filed 11/4/76)

WAC 463-34-090 DECLARATORY ((RULING—CONTENTS)) ORDERS—DISPOSITION OF PETITION. ((Any person petitioning for declaratory ruling shall state all legal rules or statutes which may bear upon the petition and shall also state all facts relied upon. If a binding declaratory ruling is sought, then the petition must be subscribed and verified in the manner prescribed for verification of complaints in the superior court of this state.)) A declaratory order entered by the council or a decision by the council to decline to enter a declaratory order shall be in writing and shall be served upon the petitioner and all other persons described in RCW 34.05.240(3).

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 463-34-020 SCOPE OF PETITIONS FOR RULE MAKING.

WAC 463-34-040 RULE-MAKING PETITIONS—REQUEST FOR SPECIFIC TIME.

WAC 463-34-100 FORM OF PETITIONS.

WSR 89-24-015

PROPOSED RULES

DEPARTMENT OF LICENSING

(Board of Registration for Professional Engineers and Land Surveyors)

[Filed November 29, 1989, 11:20 a.m.]

Original Notice.

Title of Rule: WAC 196-26-020 Engineer fees—Fees to be charged by the professional licensing services division of the Department of Licensing.

Purpose: To establish certain fees for engineers, engineers-in-training, land surveyors, engineering corporations and engineering partnerships.

Statutory Authority for Adoption: RCW 43.24.086.

Statute Being Implemented: Chapter 18.43 RCW.

Summary: This proposal would establish new fees in relation to the implementation of chapter 18.43 RCW.

Reasons Supporting Proposal: A cost study has determined that the current fees must be raised in order to offset the costs of administering the engineers and land surveyors program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Alan E. Rathbun, 1300 Quince Street, Olympia, WA 98501, 753-3634.

Name of Proponent: Director, Department of Licensing, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This proposal is intended to meet the requirements of RCW 43.24.086.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule is to establish certain fees necessary to obtain the necessary revenue to offset the costs of administering chapter 18.43 RCW. The requirements of RCW 43.24.086 include the setting of fees necessary to defray the cost of administering each program. Fees are set to generate the required revenue without being restrictive to entry into the professions.

Proposal Changes the Following Existing Rules: Fees have been amended to equitably reflect the cost of administering the differing functions within the program. The total projected revenue is calculated to offset the cost of administering the engineering and land surveying professions.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: General Administration Building, 11th and Columbia Street, Large Conference Room, Olympia, Washington, on January 9, 1990, at 10:00 a.m.

Submit Written Comments to: Alan E. Rathbun, P.E.,
P.O. Box 9649, Olympia, Washington 98504, by January 8, 1990.

Date of Intended Adoption: January 9, 1990.

November 28, 1989
Alan E. Rathbun
Registrar

AMENDATORY SECTION (Amending Order PM 667, filed 8/27/87)

WAC 196-26-020 ENGINEER FEES. The following fees shall be charged by the professional licensing services division of the department of licensing:

Title of Fee	Fee
Engineers:	
Application ((fee)) and examination	((-\$60.00)) <u>\$ 75.00</u>
Specialty exam (structural, sanitary)	<u>150.00</u>
Examination retake (2nd subsequent or more)	((50.00)) <u>70.00</u>
Specialty exam retake (2nd subsequent or more)	<u>140.00</u>
Reciprocity	((50.00)) <u>75.00</u>
Engineer certificate (initial registration)	((+\$5.00)) <u>25.00</u>
Replacement certificate	((+\$5.00)) <u>25.00</u>
Exam (locally prepared) rescore	<u>50.00</u>
Renewal	((40.00)) <u>70.00</u>
Late renewal penalty	((40.00)) <u>70.00</u>
Duplicate license	<u>15.00</u>
((Certification))	<u>25.00</u>
Engineer in training:	
Application, examination and certificate	((30.00)) <u>50.00</u>
Examination retake (2nd subsequent or more)	<u>50.00</u>
Replacement certificate	((+\$5.00)) <u>25.00</u>
((Duplicate license))	<u>15.00</u>
((Certification))	<u>25.00</u>
Land surveyor:	
Application, examination and certificate	((60.00)) <u>100.00</u>
FLS examination retake (2nd subsequent or more)	((50.00)) <u>40.00</u>
PPLS examination retake (2nd subsequent or more)	<u>60.00</u>
Reciprocity	((50.00)) <u>100.00</u>
PPLS exam rescore	((40.00)) <u>50.00</u>
Renewal	((40.00)) <u>70.00</u>
Late renewal penalty	((40.00)) <u>70.00</u>
Replacement certificate	((+\$5.00)) <u>25.00</u>
Duplicate license	<u>15.00</u>
((Certification))	<u>25.00</u>
Engineer corporation:	
Certificate of authorization	((250.00)) <u>300.00</u>
Renewal	((+\$25.00)) <u>175.00</u>
Duplicate license	<u>15.00</u>
Replacement certificate	((+\$5.00)) <u>25.00</u>
((Certification))	<u>25.00</u>
Engineer partnership:	
Certification of authorization	((250.00)) <u>300.00</u>
Renewal	((+\$25.00)) <u>175.00</u>
Replacement certificate	((+\$5.00)) <u>25.00</u>
Duplicate license	<u>15.00</u>
((Certification))	<u>25.00</u>

WSR 89-24-016
NOTICE OF PUBLIC MEETINGS
UTILITIES AND TRANSPORTATION
COMMISSION

[Memorandum—November 29, 1989]

Notice is hereby given that commencing January 1, 1990, and continuing for the balance of 1990, the time and place of meetings are as follows: Regular public meetings of the commission shall be held each Wednesday, commencing at 9:00 a.m., in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA.

WSR 89-24-017
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Filed November 29, 1989, 3:16 p.m.]

Original Notice.

Title of Rule: WAC 480-12-375 relating to brokers and forwarders. The proposed amendatory section is shown below as Appendix A, Docket No. TV-2312. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendment on economic values, pursuant to chapter 43.21H RCW.

Purpose: To require brokers and forwarders to provide surety bonds or deposits and require interstate brokers and forwarders to register.

Statutory Authority for Adoption: RCW 80.01.040(4) and 81.80.290.

Statute Being Implemented: RCW 81.80.430.

Summary: This amendment would require intrastate and interstate brokers and forwarders to provide a surety bond or deposit satisfactory security in the amount of \$10,000 to protect shippers, consignees, and carriers, and in the case of interstate brokers or forwarders, register with the commission.

Reasons Supporting Proposal: A surety bond or deposit of satisfactory security has been required in the past but in a sum to be determined by the commission. This amendment will establish that amount at \$10,000. In addition, it is now required that interstate brokers or forwarders must register with the commission and pay a \$25 filing fee. Also, failure to maintain the bond or security deposit is grounds for cancellation of a permit or registration.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul Curl, Secretary and commission transportation staff, 1300 South Evergreen Park Drive S.W., Olympia, WA, (206) 753-6451.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and

Fiscal Matters: There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization as reflected in RCW 80.01.040.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule sets a figure of \$10,000 as the amount of security bond or security deposit that brokers or forwarders must have in effect for the protection of shippers, consignees, and carriers regarding money belonging to them in the possession of the broker or forwarder. It requires interstate brokers and forwarders to register with the commission and make the failure of a broker or forwarder to maintain the bond or security sufficient cause to cancel a permit or registration. The purpose is to assure that interstate brokers or forwarders are registered with the commission and that they have sufficient surety for the protection of shippers, consignees, and carriers.

Proposal Changes the Following Existing Rules: Sets a specific amount for a surety bond or security deposit, requires registration of interstate brokers and forwarders and the failure to maintain a bond or security deposit is sufficient cause to cancel a permit or registration.

Small Business Economic Impact Statement: Pursuant to chapter 19.85 RCW, a small business economic impact statement is required if more than ten percent of any one industry within a three-digit standard industry classification code is affected. Motor carrier brokers and freight forwarders fall within industry group number 473, Arrangement of Transportation of Freight and Cargo.

Since the proposed rule affects more than ten percent of the broker and forwarder industry within the classification, an economic impact statement is required. However, the proposed rule will have minimal economic impact on intrastate and interstate motor carrier brokers and forwarders. Currently, there are 173 motor carrier brokers and forwarders located in Washington state that have Interstate Commerce Commission authority to operate. There are two carriers that have intrastate authority to operate as a broker and forwarder.

Under federal rules, all motor carrier brokers and forwarders operating in interstate commerce must have a minimum of \$10,000 surety bond or other deposit of satisfactory security. This ensures financial responsibility of the broker or forwarder by providing for payment to shippers or motor carriers if the broker fails to carry out its contract, agreement, or arrangement for the supplying of transportation. The cost for each interstate or intrastate broker or forwarder to carry a \$10,000 bond is \$100, paid annually to the financial institution or insurance company.

The proposed rule would require motor carrier brokers and forwarders operating in interstate commerce doing business in Washington state to register with the Utilities and Transportation Commission and file a Uniform Application for Registration of Operating Authority issued by the ICC and pay a one-time filing fee of \$25.

With the filing of their registration application, brokers and forwarders must provide proof that they have a surety bond, or deposit satisfactory security in the amount of \$10,000. Any broker or forwarder operating in intrastate commerce would also provide proof that they have a bond or report satisfactory security in the amount of \$10,000. A check of commission records reveals that the two intrastate broker/forwarders operating in Washington have on file proof that they carry surety bonds of \$1,000 minimum. The additional cost for these carriers to comply with the proposed rules would be minimal, in that an additional \$90 a year would be required to carry a \$10,000 bond as stipulated in the proposed rule.

In summary, the economic impact of the proposed rule is minimal, since interstate brokers and forwarders affected by the rule already carry the \$10,000 bond or other security deposit. The only additional cost to these carriers operating in the state of Washington is a one-time \$25 registration fee filed with their application and proof that they meet the minimum bond requirements.

The economic impact affecting intrastate brokers and forwarders is also minimal in that the additional cost of carrying a \$10,000 bond or other security deposit only amounts to \$100 a year.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, Washington, on January 10, 1990, at 9:00 a.m.

Submit Written Comments to: Paul Curl, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA, by January 2, 1990.

Date of Intended Adoption: January 10, 1990.

November 29, 1989

Paul Curl
Secretary

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-5, filed 6/6/69)

WAC 480-12-375 BOND REQUIRED—BROKER—FORWARDER. (1) Each broker or forwarder shall file with the commission, and keep in effect, a surety bond, or deposit satisfactory security, ((in a sum to be determined by the commission)) in the amount of ten thousand dollars, conditioned upon such broker or forwarder making compensation to shippers, consignees and carriers for all moneys belonging to them and coming into ((his)) the broker's or forwarder's possession in connection with such transportation service.

(2) It is unlawful for a broker or forwarder to conduct business as such in this state without first securing appropriate authority from the Interstate Commerce Commission, if such authority is required, and registering with the Washington utilities and transportation commission. The commission shall grant such registration without hearing upon filing a uniform application for registration of operating authority issued by ICC and payment of a twenty-five dollar filing fee.

(3) Failure to file such bond or deposit such security ((shall be)) is sufficient ((ground)) cause for refusal of the commission to grant the application for a permit((, and)) or registration. Failure to ((make promptly the remittances provided for herein and in WAC 480-12-100 shall be deemed)) maintain the bond or the deposit of security is sufficient cause for cancellation of a permit or registration.

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

WSR 89-24-018
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER
[Memorandum—November 22, 1989]

The Design Committee of the Washington State Convention and Trade Center will meet on Thursday, November 30, 1989, at 3:00 p.m. The location of the meeting will be in Room 613 of the Convention Center, 800 Convention Place, Seattle. Please access Room 613 by way of the 5th Floor Administration Offices. The committee will discuss the conversion and expansion construction project.

WSR 89-24-019
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER
[Memorandum—November 28, 1989]

The board of directors of the Washington State Convention and Trade Center will hold a special meeting of the board on Wednesday, December 6, 1989, at 2:00 p.m. This special meeting replaces the regular meeting scheduled for 3:00 p.m. the same day. The location is Room 601 of the Washington State Convention and Trade Center, 800 Convention Place, Seattle.

WSR 89-24-020
NOTICE OF PUBLIC MEETINGS
WASHINGTON INSTITUTE
OF APPLIED TECHNOLOGY
[Memorandum—November 29, 1989]

BOARD OF DIRECTORS MEETING
Wednesday, November 29, 1989
7:30 a.m.
WIAT Sixth Floor Boardroom

WSR 89-24-021
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
[Order 2021—Filed November 30, 1989, 8:00 a.m.]

Date of Adoption: November 30, 1989.

Purpose: To give the state veterinarian authority to require tuberculosis testing of cattle imported from states classified modified accredited or accredited free of *Mycobacterium bovis* which has been cultured from a herd in that state in the previous twelve months.

Statutory Authority for Adoption: Chapter 16.36 RCW.

Pursuant to notice filed as WSR 89-21-074 on October 18, 1989.

Effective Date of Rule: Thirty-one days after filing.
November 30, 1989
C. Alan Pettibone
Director

AMENDATORY SECTION (Amending Order 1964, filed 2/5/88)

WAC 16-54-082 DOMESTIC BOVINE ANIMALS. All domestic bovine animals (including bison) entering Washington shall be moved on a permit issued by the office of the state veterinarian. All domestic bovine animals (including bison) shall meet the following requirements:

(1) Tuberculosis. All beef and dairy cattle must originate from herds not under quarantine in a not less than modified accredited area. The state veterinarian may require a negative tuberculosis test within thirty days of import for cattle (including bison) from the states classified as modified accredited or accredited free if *Mycobacterium bovis* (*M. bovis*) has been cultured from a herd in that state within the previous twelve months.

(2) Brucellosis health certificate requirements. All domestic bovine animals (including bison), except those consigned to restricted feedlots, or to federally inspected slaughter plants for immediate slaughter, or beef breed cattle or slaughter only dairy breed cattle consigned to a state-federal approved livestock market, shall be accompanied by an official interstate health certificate and shall meet the following requirements:

(a) Brucellosis test.

(i) Cattle from class free and A states.

(A) Sexually intact heifers from brucellosis quarantined herds in class free and A states shall not be imported into the state of Washington except for immediate slaughter at a federally inspected slaughter plant.

(B) Cattle other than those referred to in (a)(i)(A) of this subsection from class free or A states which are test eligible, unless destined for a restricted feedlot or for immediate slaughter at a federally inspected slaughter establishment, must be negative to an official brucellosis test conducted within thirty days prior to date of entry. Cattle not considered test eligible include:

(I) Calves under six months of age.

(II) Steers and spayed heifers.

(III) Officially vaccinated dairy cattle under twenty months of age and officially vaccinated beef cattle under twenty-four months of age.

(IV) Cattle from a certified brucellosis free herd.

(V) Cattle from selected brucellosis free states designated by the Washington state veterinarian.

(ii) Cattle from Class B or C states.

(A) Sexually intact heifers from other than certified brucellosis free herds in states classified B or C by the USDA shall not be imported into the state of Washington except for immediate slaughter at a federally inspected slaughter establishment.

(B) Cattle other than those referred to in (a)(ii)(A) of this subsection from Class B states which are test eligible, unless destined for a restricted feedlot or for immediate slaughter at a federally inspected slaughter establishment, must be negative to an official brucellosis test conducted within thirty days prior to date of entry and held on the premises of destination and kept separate from all other cattle for retest not less than forty-five nor more than one hundred twenty days from the date of

the preentry test. Cattle not considered test eligible include:

- (I) Calves under six months of age.
- (II) Steers and spayed heifers.
- (III) Cattle from a certified brucellosis free herd.
- (C) Cattle other than those referred to in (a)(ii)(A) of this subsection from Class C states which are test eligible must be negative to two official brucellosis tests conducted prior to entry at least sixty days apart, the second test to be conducted within thirty days of entry. Those cattle shall be held on the premises of destination and kept separate from all other cattle for retest not less than forty-five nor more than one hundred twenty days from the date of the second negative preentry test. Cattle not considered test eligible include:

- (I) Calves under six months of age.
- (II) Steers and spayed heifers.
- (III) Cattle from a certified brucellosis free herd.
- (iii) Beef cattle eligible for brucellosis testing coming from class free or A states may be moved to state-federal approved livestock markets in Washington to meet entry health requirements.

(iv) Should brucellosis infection occur in the state of Washington as a result of importation of infected animals, all future importations from the state of origin shall be required to meet import regulations of the next lower classification. State regulatory officials of that state shall be notified and the lower classification entry requirement will be in effect for twelve months following notification to the state of origin.

(b) Brucellosis calfhood vaccines—female dairy cattle. All female dairy cattle must be identified as official brucellosis calfhood vaccines before entry. Except the following classes of cattle are exempt from this requirement:

- (i) Calves under four months of age.
- (ii) Those cattle consigned directly to a federally inspected slaughter plant.
- (iii) Those cattle consigned directly to a restricted feedlot.

(iv) Spayed heifers.

(c) Brucellosis calfhood vaccines—female beef cattle. All female beef breed cattle must be identified as official brucellosis vaccines before entry, except the following classes of cattle are exempt from this requirement:

- (i) Calves under four months of age.
- (ii) Female beef breed cattle born before January 1, 1983.
- (iii) Cattle sold or consigned to a restricted feedlot.
- (iv) Cattle sold or consigned to a federally inspected slaughter plant.
- (v) Cattle sold or consigned to a public livestock market for immediate slaughter only.
- (vi) Spayed heifers.
- (vii) Cattle from a certified brucellosis free country where vaccination is prohibited by law: PROVIDED, That the state veterinarian, upon being assured that to allow such cattle to enter would not create any jeopardy to the livestock industry of the state of Washington, may issue a special permit for such entry.

(3) Scabies. The office of the state veterinarian may require that any cattle from a known infected area be dipped at an official dipping facility within ten days of entry and, except those consigned to a federally inspected slaughter plant for immediate slaughter within fourteen days, be accompanied by an official interstate health certificate. Ivermectin may be used as an alternative to the dipping procedure for beef and nonlactating dairy animals.

(4) Vesicular stomatitis. The office of the state veterinarian may require that:

(a) Any cattle be accompanied by an official interstate health certificate except those consigned to a federally inspected slaughter plant for immediate slaughter within fourteen days;

(b) Dairy breed cattle be held separate and apart from all other cattle for a period of seven days at the point of destination and rechecked by an accredited veterinarian at the end of that period; except that dairy breed cattle from known infected areas shall not be allowed entry into the state; and

(c) Beef breed cattle from known infected areas be held separate and apart from all other cattle for a period of thirty days either prior to entry or at the point of destination or both.

(5) Temporary grazing permits. Herd owners desiring to move cattle into Washington for temporary grazing purposes must obtain a prior permit from the office of the state veterinarian: PROVIDED, That the state veterinarian may, if deemed necessary, require a brucellosis herd test and/or an official health certificate for any cattle entering the state for grazing purposes. Applicants must also file an approved herd plan with the office of the state veterinarian to phase out all brucellosis nonvaccinates in the herd prior to January 1, 1988. Grazing permits shall be for one specified season only and shall be valid for movement to only that destination declared on the permit. A copy of the permit shall accompany any vehicle transporting cattle into the state for such temporary grazing purposes.

**WSR 89-24-022
PERMANENT RULES
DEPARTMENT OF LICENSING**

[Filed November 30, 1989, 8:07 a.m.]

Date of Adoption: November 22, 1989.

Purpose: To increase the fee for filing secured interests and obtaining certified searches, to include dairy products in the regulation and to expand and simplify the standard forms approval process.

Citation of Existing Rules Affected by this Order: Amending WAC 308-400-025, 308-400-040, 308-400-046, 308-400-047, 308-400-048, 308-400-050, 308-400-052, 308-400-095 and 308-400-100.

Statutory Authority for Adoption: RCW 62A.9-409(1), 60.11.040(3), 60.13.040 (2)(f), 60.68.035(2) and 34.05.220.

Pursuant to notice filed as WSR 89-21-077 on October 18, 1989.

Changes Other than Editing from Proposed to Adopted Version: The simplification of the standard forms approval process (see above) is by purchase of camera ready copy from the Department of Licensing. The \$1.50 fee per page was not included in the proposal and has been added to this permanent rule filing, in WAC 308-400-050(2).

Effective Date of Rule: Thirty days after filing.

November 29, 1989

Mary Faulk
Director

Chapter 308-400 WAC

STANDARDIZED FILING FORMS AND PROCEDURES—UNIFORM COMMERCIAL CODE, CROP LIENS, AND PROCESSOR AND PREPARER LIENS FOR AGRICULTURAL DAIRY AND COMMERCIAL FISH PRODUCTS AND CERTAIN FEDERAL LIENS

AMENDATORY SECTION (Amending Order BLS 130, filed 3/1/89)

WAC 308-400-010 AUTHORITY AND PURPOSE. These rules are adopted under authority of RCW 62A.9-409(1), 60.11.040(3), 60.13.040 (2)(f), 60.68.035(2), and ((34.04.020)) 34.05.220, to standardize filing forms for use under the Uniform Commercial Code and to establish uniform procedures for filing with, and obtaining information from, filing officers.

AMENDATORY SECTION (Amending Order BLS 130, filed 3/1/89)

WAC 308-400-025 FILING OF CROP LIENS AND PROCESSOR AND PREPARER LIENS FOR AGRICULTURAL, DAIRY AND COMMERCIAL FISH PRODUCTS. Crop liens and processor and preparer liens for agricultural, dairy, and commercial fish products shall be filed under the uniform, commercial code section of the department of licensing in accordance with the regulations adopted in this chapter.

AMENDATORY SECTION (Amending Order BLS 130, filed 3/1/89)

WAC 308-400-040 UCC-1 FINANCING STATEMENT. Effective January 1, 1990, the following form shall be the standard UCC-1 Financing Statement Form prescribed by the department of licensing:

**FINANCING STATEMENT INSTRUCTIONS
UCC-1**

1. **COMPLETION OF FORM:** Please type or print the information presented on this form clearly and accurately. If you make an error, be certain to correct all copies. Information from the copies will be microfilmed and recorded exactly as you present it. A financing statement must contain the name and mailing address of the debtor, the name and address of the secured party, appropriate signature(s) and a description of the collateral covered by the financing statement.
2. **DEBTOR AND SECURED PARTY NAMES:** The legal name of the debtor, secured party or assignee is required. When the debtor name is a personal name, check the personal box and enter the Social Security number. If the debtor name is a business name, check the business box and enter the federal employer identification number (FEIN). If the filing is being made under both personal and business names, both boxes should be checked. Trade names, DBAs or AKAs (including nicknames), may also be entered in box 1.
If more than one debtor is ((listed please follow the same procedure for each named debtor)) named, please identify the tax number belonging to each name.
3. **SIGNATURES:** All debtors must sign box 12, an attached signature page or a security agreement, unless box 11 is completed. If box 11 is completed, the secured party must sign box 13. The typed or printed name of the debtor or secured party must appear above the signature(s) in boxes 12 or 13 exactly as it appears in boxes 1, 3 or 4.
4. **DEFINITION OF TRANSMITTING UTILITY AND PRODUCTS OF COLLATERAL:** A TRANSMITTING UTILITY is any person primarily engaged in the railroad, street railway or trolley bus business; the electric or electronic communication transmission business; the transmission of goods by pipeline or the transmission or the production and transmission of electricity, steam, gas or water; or the provision of sewer service.
PRODUCTS OF COLLATERAL are things made from collateral in which a security interest has been perfected including things whose original identity may be lost by manufacture, processing, assemblage or commingling.
5. **ATTACHMENTS:** If space provided in any box is inadequate, type or print the words "See Attachments" in the box and continue the information on additional 8 1/2" by 11" sheets. Enter the total number of attached sheets in box 6. Include copies of the attached sheets only if you want copies of the attachments returned. If any attachment(s) are added to the filing form, the fee is \$7.00.
6. **MAILING:** Send copies 1 and 2 to the address provided in box 9. Do not remove the carbons between these pages. Use an envelope 9 1/2" x 6 1/2" to prevent mutilation during the automated mail opening process.
7. **TERMINATION:** When the filing is to be terminated, the acknowledgment copy may be returned to the filing officer with the termination statement signed by the secured party of record. The UCC-3 form may also be used as a termination statement. When either form is used, the current legal name of the secured party of record must be typed or printed above the signature.
If the name of the secured party has changed for any reason since the last filing action on the financing statement you are terminating, the past and current legal name(s) of the secured party(ies) must appear above the appropriate signature.
There is no charge to terminate a filing.
8. **FILING FEES:** The fee for filing a UCC-1 ((R/12/88)) (R/10/89) is ((\$4.00)) \$7.00. If any other form is used or additional sheet(s) have been attached, the filing fee is ((\$7.00)) \$14.00. Filing(s) will not be recorded unless the proper fee is sent. Checks should be made payable to the department of licensing.

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES	
<p>This UCC-1 FINANCING STATEMENT is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE, chapter 62A.9 RCW, to perfect a security interest in the below named collateral.</p> <p>Filing fee . . . \$1.00 Filing with attachment fee . . . \$7.00</p>	
<p>1. DEBTOR(S) (see instruction #2)</p> <p><input type="checkbox"/> PERSONAL (last, first, middle name and address) SSN: _____</p> <p><input type="checkbox"/> BUSINESS (legal business name and address) FEIN: _____</p> <p>TRADE NAME, DBA, AKA: _____</p>	<p>2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX</p>
<p>3. SECURED PARTY(IES) (name and address)</p> <p>_____</p>	<p>4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable (name and address)</p> <p>_____</p>
<p>5. CHECK ONLY IF APPLICABLE: (For definitions of TRANSMITTING UTILITY AND PRODUCTS OF COLLATERAL, see instruction sheet.)</p> <p><input type="checkbox"/> Debtor is a Transmitting Utility <input type="checkbox"/> Products of Collateral are also covered</p>	
<p>6. NUMBER OF ADDITIONAL SHEETS PRESENTED: _____</p>	
<p>7. THIS FINANCING STATEMENT covers the following collateral: (Attach additional 8½" x 11" sheet(s) if needed.)</p> <p>_____</p>	
<p>8. RETURN ACKNOWLEDGMENT COPY TO: (name and address)</p> <p>_____</p>	<p>9. FILE WITH:</p> <p>UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504</p> <p>MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING</p>
<p>10. FOR OFFICE USE ONLY IMAGES TO BE FILMED</p> <p>_____</p>	
<p>11. If collateral is described below, this statement may be signed by the Secured Party instead of the Debtor. Please check the appropriate box, complete the adjacent lines and box 13, if collateral is:</p> <p>a. <input type="checkbox"/> already subject to a security interest in another jurisdiction when it was brought into this state or when the debtor's location was changed to this state. (complete adjacent lines 1 and 2)</p> <p>b. <input type="checkbox"/> proceeds of the original collateral described above in which a security interest was perfected. (complete adjacent lines 1 and 2)</p> <p>c. <input type="checkbox"/> listed on a filing which has lapsed. (complete adjacent lines 1 and 2)</p> <p>d. <input type="checkbox"/> acquired after a change of name, identity, or corporate structure of the debtor(s). (complete adjacent lines 1, 2 and 3)</p>	
<p>12. DEBTOR NAME(S) AND SIGNATURE(S):</p> <p>TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1.</p> <p>SIGNATURE(S) OF DEBTOR(S)</p> <p>SIGNATURE(S) OF DEBTOR(S)</p>	<p>13. SECURED PARTY NAME(S) AND SIGNATURE(S) ARE REQUIRED IF BOX 11 HAS BEEN COMPLETED.</p> <p>TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4.</p> <p>SIGNATURE(S) OF SECURED PARTY(IES)</p> <p>SIGNATURE(S) OF SECURED PARTY(IES)</p>
<p>FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88)</p> <p>WASHINGTON UCC-1</p>	

PLEASE TYPE FORM — IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-1 FINANCING STATEMENT is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE, chapter 62A.9 RCW, to perfect a security interest in the below named collateral.

Filing fee . . . \$4.00 Filing with attachment fee . . . \$7.00

1. **DEBTOR(S) (see instruction #2)**

PERSONAL (last, first, middle name and address) SSN: _____
 BUSINESS (legal business name and address) FEIN: _____

2. **FOR OFFICE USE ONLY — DO NOT WRITE IN THIS BOX**

TRADE NAME, OBA, AKA:

3. SECURED PARTY(IIES) (name and address)

4. ASSIGNEE(S) of SECURED PARTY(IIES) if applicable
(name and address)

5. CHECK ONLY IF APPLICABLE: (For definitions of TRANSMITTING UTILITY AND PRODUCTS OF COLLATERAL, see instruction sheet.)

Debtor is a Transmitting Utility Products of Collateral are also covered

6. NUMBER OF ADDITIONAL SHEETS PRESENTED:

7. THIS FINANCING STATEMENT covers the following collateral: (Attach additional 8 1/2" x 11" sheet(s) if needed.)

8. RETURN ACKNOWLEDGMENT CDPY TO: (name and address)

9. FILE WITH:

UNIFORM COMMERCIAL CODE
DEPARTMENT OF LICENSING
P.O. BOX 9660
OLYMPIA, WA 98504

MAKE CHECKS PAYABLE TO THE
DEPARTMENT OF LICENSING

10. FOR OFFICE USE ONLY IMAGES TO BE FILMED

11. If collateral is described below, this statement may be signed by the Secured Party instead of the Debtor. Please check the appropriate box, complete the adjacent lines and box 13, if collateral is:
- a. already subject to a security interest in another jurisdiction when it was brought into this state or when the debtor's location was changed to this state. (complete adjacent lines 1 and 2)
 - b. proceeds of the original collateral described above in which a security interest was perfected. (complete adjacent lines 1 and 2)
 - c. listed on a filing which has lapsed. (complete adjacent lines 1 and 2)
 - d. acquired after a change of name, identity, or corporate structure of the debtor(s). (complete adjacent lines 1, 2 and 3)

TERMINATION STATEMENT: The SECURED PARTY(IIES) certifies that the SECURED PARTY(IIES) no longer claims a security interest under the financing statement bearing the file number shown above. NO FEE REQUIRED FOR TERMINATION.

PRINT OR TYPE NAME OF SECURED PARTY(IIES) AS IT APPEARS IN BOX 3 OR 4. (see instruction #7)

Date _____

Signature(s) _____

Signature(s) _____

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88)

COPY 2—FILING OFFICE — ACKNOWLEDGMENT

WASHINGTON UCC-1

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES	
<p>This UCC-1 FINANCING STATEMENT is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE, chapter 62A.9 RCW, to perfect a security interest in the below named collateral.</p> <p>Filing fee \$4.00 Filing with attachment fee \$7.00</p>	
<p>1. DEBTOR(S) (see instruction #2)</p> <p><input type="checkbox"/> PERSONAL (last, first, middle name and address) SSN: _____</p> <p><input type="checkbox"/> BUSINESS (legal business name and address) FEIN: _____</p>	<p>2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX</p>
<p>TRADE NAME, DBA, AKA: _____</p>	
<p>3. SECURED PARTY(IES) (name and address)</p> <p>_____</p>	<p>4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable (name and address)</p> <p>_____</p>
<p>5. CHECK ONLY IF APPLICABLE: (For definitions of TRANSMITTING UTILITY AND PRODUCTS OF COLLATERAL, see instruction sheet.)</p> <p><input type="checkbox"/> Debtor is a Transmitting Utility <input type="checkbox"/> Products of Collateral are also covered</p>	
<p>6. NUMBER OF ADDITIONAL SHEETS PRESENTED: _____</p>	
<p>7. THIS FINANCING STATEMENT covers the following collateral: (Attach additional 8 1/2" x 11" sheet(s) if needed.)</p> <p>_____</p>	
<p>8. RETURN ACKNOWLEDGMENT COPY TO: (name and address)</p> <p>_____</p>	<p>9. FILE WITH:</p> <p>UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504</p> <p>MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING</p>
<p>10. FOR OFFICE USE ONLY IMAGES TO BE FILMED</p> <p>_____</p>	
<p>11. If collateral is described below, this statement may be signed by the Secured Party instead of the Debtor. Please check the appropriate box, complete the adjacent lines and box 13, if collateral is:</p> <p>a. <input type="checkbox"/> already subject to a security interest in another jurisdiction when it was brought into this state or when the debtor's location was changed to this state. (complete adjacent lines 1 and 2)</p> <p>b. <input type="checkbox"/> proceeds of the original collateral described above in which a security interest was perfected. (complete adjacent lines 1 and 2)</p> <p>c. <input type="checkbox"/> listed on a filing which has lapsed. (complete adjacent lines 1 and 2)</p> <p>d. <input type="checkbox"/> acquired after a change of name, identity, or corporate structure of the debtor(s). (complete adjacent lines 1, 2 and 3)</p>	
<p>12. DEBTOR NAME(S) AND SIGNATURE(S):</p> <p>TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1.</p> <p>SIGNATURE(S) OF DEBTOR(S)</p> <p>SIGNATURE(S) OF DEBTOR(S)</p>	<p>13. SECURED PARTY NAME(S) AND SIGNATURE(S) ARE REQUIRED IF BOX 11 HAS BEEN COMPLETED.</p> <p>TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4.</p> <p>SIGNATURE(S) OF SECURED PARTY(IES)</p> <p>SIGNATURE(S) OF SECURED PARTY(IES)</p>
<p>FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88) WASHINGTON UCC-1</p>	
<p>COPY 3 – FILE COPY – DEBTOR</p>	

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-1 FINANCING STATEMENT is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE, chapter 62A.9 RCW, to perfect a security interest in the below named collateral.

Filing fee \$4.00 Filing with attachment fee \$7.00

1. DEBTOR(S) (see instruction #2)

PERSONAL (last, first, middle name and address) SSN: _____

BUSINESS (legal business name and address) FEIN: _____

2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX

TRADE NAME, DBA, AKA: _____

3. SECURED PARTY(IES) (name and address)

4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable
(name and address)

5. CHECK ONLY IF APPLICABLE: (For definitions of TRANSMITTING UTILITY AND PRODUCTS OF COLLATERAL, see instruction sheet.)

Debtor is a Transmitting Utility

Products of Collateral are also covered

6. NUMBER OF ADDITIONAL SHEETS PRESENTED:

7. THIS FINANCING STATEMENT covers the following collateral: (Attach additional 8 1/2" x 11" sheet(s) if needed.)

8. RETURN ACKNOWLEDGMENT COPY TO: (name and address)

9. FILE WITH:

UNIFORM COMMERCIAL CODE
DEPARTMENT OF LICENSING
P.O. BOX 9860
OLYMPIA, WA 98504

MAKE CHECKS PAYABLE TO THE
DEPARTMENT OF LICENSING10. FOR OFFICE USE ONLY IMAGES TO
BE FILMED

11. If collateral is described below, this statement may be signed by the Secured Party instead of the Debtor. Please check the appropriate box, complete the adjacent lines and box 13, if collateral is:

- a. already subject to a security interest in another jurisdiction when it was brought into this state or when the debtor's location was changed to this state. (complete adjacent lines 1 and 2)
- b. proceeds of the original collateral described above in which a security interest was perfected. (complete adjacent lines 1 and 2)
- c. listed on a filing which has lapsed. (complete adjacent lines 1 and 2)
- d. acquired after a change of name, identity, or corporate structure of the debtor(s). (complete adjacent lines 1, 2 and 3)

1. _____ ORIGINAL FILING NUMBER

2. _____ FILING OFFICE WHERE FILED

3. _____ FORMER NAME OF DEBTOR(S)

12. DEBTOR NAME(S) AND SIGNATURE(S):

13. SECURED PARTY NAME(S) AND SIGNATURE(S) ARE REQUIRED IF BOX 11 HAS BEEN COMPLETED.

TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1.

TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4.

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF SECURED PARTY(IES)

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF SECURED PARTY(IES)

COPY 4 – FILE COPY – SECURED PARTY

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88)
WASHINGTON UCC-1

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-1 FINANCING STATEMENT is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE, chapter 62A.9 RCW, to perfect a security interest in the below named collateral.

Filing fee . . . \$7.00 Filing with attachment fee . . . \$14.00

1. DEBTOR(S) (see instruction #2) <input type="checkbox"/> PERSONAL (last, first, middle name and address) <input type="checkbox"/> BUSINESS (legal business name and address)	<i>Debtor 1</i> SSN: _____ FEIN: _____ <i>Debtor 2</i> SSN: _____ FEIN: _____
TRADE NAME, DBA, AKA:	

3. SECURED PARTY(IES) (name and address) 	2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX
4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable (name and address)	

5. CHECK ONLY IF APPLICABLE: (For definitions of TRANSMITTING UTILITY AND PRODUCTS OF COLLATERAL, see instruction sheet.) <input type="checkbox"/> Debtor is a Transmitting Utility <input type="checkbox"/> Products of Collateral are also covered	
6. NUMBER OF ADDITIONAL SHEETS PRESENTED:	

7. THIS FINANCING STATEMENT covers the following collateral: (Attach additional 8½" x 11" sheet(s) if needed.)	
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8. RETURN ACKNOWLEDGMENT COPY TO: (name and address) 	9. FILE WITH: UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504-8007 MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING
10. FOR OFFICE USE ONLY IMAGES TO BE FILMED <input type="checkbox"/>	

11. If collateral is described below, this statement may be signed by the Secured Party instead of the Debtor. Please check the appropriate box, complete the adjacent lines and box 13, if collateral is:	
a. <input type="checkbox"/> already subject to a security interest in another jurisdiction when it was brought into this state or when the debtor's location was changed to this state. (complete adjacent lines 1 and 2) b. <input type="checkbox"/> proceeds of the original collateral described above in which a security interest was perfected. (complete adjacent lines 1 and 2) c. <input type="checkbox"/> listed on a filing which has lapsed. (complete adjacent lines 1 and 2) d. <input type="checkbox"/> acquired after a change of name, identity, or corporate structure of the debtor(s). (complete adjacent lines 1, 2 and 3)	1. _____ ORIGINAL FILING NUMBER 2. _____ FILING OFFICE WHERE FILED 3. _____ FORMER NAME OF DEBTOR(S)

12. DEBTOR NAME(S) AND SIGNATURE(S): TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1. SIGNATURE(S) OF DEBTOR(S) SIGNATURE(S) OF DEBTOR(S)	13. SECURED PARTY NAME(S) AND SIGNATURE(S) ARE REQUIRED IF BOX 11 HAS BEEN COMPLETED. TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4. SIGNATURE(S) OF SECURED PARTY(IES) SIGNATURE(S) OF SECURED PARTY(IES)
FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/10/89) WASHINGTON UCC-1	

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This **UCC-1 FINANCING STATEMENT** is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE, chapter 62A.9 RCW, to perfect a security interest in the below named collateral.

Filing fee \$ 7.00 Filing with attachment fee \$14.00

<p>1. DEBTOR(S) (see instruction #2)</p> <p><input type="checkbox"/> PERSONAL (last, first, middle name and address)</p> <p><input checked="" type="checkbox"/> BUSINESS (legal business name and address)</p>	<p><i>Debtor 1</i> SSN: _____ FEIN: _____</p> <p><i>Debtor 2</i> SSN: _____ FEIN: _____</p>	<p>2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX</p>
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TRADE NAME, DBA, AKA:

<p>3. SECURED PARTY(IES) (<i>name and address</i>)</p> <div style="text-align: center; margin-top: 10px;"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div>	<p>4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable (<i>name and address</i>)</p> <div style="text-align: center; margin-top: 10px;"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div>
<p>5. CHECK ONLY IF APPLICABLE: (<i>For definitions of TRANSMITTING UTILITY AND PRODUCTS OF COLLATERAL, see instruction sheet.</i>)</p> <p><input type="checkbox"/> Debtor is a Transmitting Utility <input type="checkbox"/> Products of Collateral are also covered</p>	
<p>6. NUMBER OF ADDITIONAL SHEETS PRESENTED: _____</p>	
<p>7. THIS FINANCING STATEMENT covers the following collateral: (<i>Attach additional 8½" x 11" sheet(s) if needed.</i>)</p>	

8. RETURN ACKNOWLEDGMENT CDPY TO: <i>(name and address)</i>	<p>9. FILE WITH:</p> <p>UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504-8007</p> <p>MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING</p> <p>10. FOR OFFICE USE ONLY <input type="checkbox"/> IMAGES TO <input type="checkbox"/> RE FILMED</p>
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TERMINATION STATEMENT: The SECURED PARTY(IES) certifies that the SECURED PARTY(IES) no longer claims a security interest under the financing statement bearing the file number shown above. NO FEE REQUIRED FOR TERMINATION. The acknowledgment of this termination will be returned to the name and address listed in box B. Please complete or correct box B as needed.

PRINT OR TYPE NAME OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4 (see instruction #2) _____ Date _____

Date _____

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/10/89)

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-1 FINANCING STATEMENT is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE, chapter 62A.9 RCW, to perfect a security interest in the below named collateral.

Filing fee . . . \$7.00 Filing with attachment fee . . . \$14.00

1. DEBTOR(S) (see instruction #2)	<i>Debtor 1</i> SSN: _____ FEIN: _____
<input type="checkbox"/> PERSONAL (last, first, middle name and address)	<i>Debtor 2</i> SSN: _____ FEIN: _____
<input type="checkbox"/> BUSINESS (legal business name and address)	

2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX

TRADE NAME, DBA, AKA:

3. SECURED PARTY(IES) (name and address)

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

**4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable
(name and address)****5. CHECK ONLY IF APPLICABLE: (For definitions of TRANSMITTING UTILITY AND PRODUCTS OF COLLATERAL, see instruction sheet.)**

Debtor is a Transmitting Utility Products of Collateral are also covered

6. NUMBER OF ADDITIONAL SHEETS PRESENTED:**7. THIS FINANCING STATEMENT covers the following collateral: (Attach additional 8½" x 11" sheet(s) if needed.)****8. RETURN ACKNOWLEDGMENT COPY TO: (name and address)**

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

9. FILE WITH:

UNIFORM COMMERCIAL CODE
DEPARTMENT OF LICENSING
P.O. BOX 9660
OLYMPIA, WA 98504-8007

MAKE CHECKS PAYABLE TO THE
DEPARTMENT OF LICENSING

10. FOR OFFICE USE ONLY IMAGES TO BE FILMED

11. If collateral is described below, this statement may be signed by the Secured Party instead of the Debtor. Please check the appropriate box, complete the adjacent lines and box 13, if collateral is:

- a. already subject to a security interest in another jurisdiction when it was brought into this state or when the debtor's location was changed to this state. (complete adjacent lines 1 and 2)
- b. proceeds of the original collateral described above in which a security interest was perfected. (complete adjacent lines 1 and 2)
- c. listed on a filing which has lapsed. (complete adjacent lines 1 and 2)
- d. acquired after a change of name, identity, or corporate structure of the debtor(s). (complete adjacent lines 1, 2 and 3)

1. _____ ORIGINAL FILING NUMBER

2. _____ FILING OFFICE WHERE FILED

3. _____ FORMER NAME OF DEBTOR(S)

12. DEBTOR NAME(S) AND SIGNATURE(S):

TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1.

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF DEBTOR(S)

13. SECURED PARTY NAME(S) AND SIGNATURE(S) ARE REQUIRED IF BOX 11 HAS BEEN COMPLETED.

TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4.

SIGNATURE(S) OF SECURED PARTY(IES)

SIGNATURE(S) OF SECURED PARTY(IES)

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/10/89)

WASHINGTON UCC-1

COPY 3 – FILE COPY – DEBTOR

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-1 FINANCING STATEMENT is presented for filing pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE, chapter 62A.9 RCW, to perfect a security interest in the below named collateral.

Filing fee \$7.00 Filing with attachment fee \$14.00

1. DEBTOR(S) (see instruction #2)	Debtor 1 <input type="checkbox"/> PERSONAL (last, first, middle name and address) SSN: _____ <input type="checkbox"/> BUSINESS (legal business name and address) FEIN: _____	2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX
	Debtor 2 SSN: _____ FEIN: _____	
TRADE NAME, DBA, AKA:		

3. SECURED PARTY(IES) (name and address)	4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable (name and address)
<input type="checkbox"/> <input type="checkbox"/> Debtor is a Transmitting Utility <input type="checkbox"/> Products of Collateral are also covered	

5. CHECK ONLY IF APPLICABLE: (For definitions of TRANSMITTING UTILITY AND PRODUCTS OF COLLATERAL, see instruction sheet.) <input type="checkbox"/> Debtor is a Transmitting Utility <input type="checkbox"/> Products of Collateral are also covered
6. NUMBER OF ADDITIONAL SHEETS PRESENTED: _____
7. THIS FINANCING STATEMENT covers the following collateral: (Attach additional 8½" x 11" sheet(s) if needed.)

8. RETURN ACKNOWLEDGMENT COPY TO: (name and address)	9. FILE WITH: UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504-8007 MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING
<input type="checkbox"/> <input type="checkbox"/> Debtor is a Transmitting Utility <input type="checkbox"/> Products of Collateral are also covered	

11. If collateral is described below, this statement may be signed by the Secured Party instead of the Debtor. Please check the appropriate box, complete the adjacent lines and box 13, if collateral is: a. <input type="checkbox"/> already subject to a security interest in another jurisdiction when it was brought into this state or when the debtor's location was changed to this state. (complete adjacent lines 1 and 2) b. <input type="checkbox"/> proceeds of the original collateral described above in which a security interest was perfected. (complete adjacent lines 1 and 2) c. <input type="checkbox"/> listed on a filing which has lapsed. (complete adjacent lines 1 and 2) d. <input type="checkbox"/> acquired after a change of name, identity, or corporate structure of the debtor(s). (complete adjacent lines 1, 2 and 3)	1. _____ ORIGINAL FILING NUMBER 2. _____ FILING OFFICE WHERE FILED 3. _____ FORMER NAME OF DEBTOR(S)
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12. DEBTOR NAME(S) AND SIGNATURE(S): TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1. SIGNATURE(S) OF DEBTOR(S) SIGNATURE(S) OF DEBTOR(S)	13. SECURED PARTY NAME(S) AND SIGNATURE(S) ARE REQUIRED IF BOX 11 HAS BEEN COMPLETED. TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4. SIGNATURE(S) OF SECURED PARTY(IES) SIGNATURE(S) OF SECURED PARTY(IES)
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AMENDATORY SECTION (Amending Order BLS 130, filed 3/1/89)

WAC 308-400-046 UCC-3 CHANGE STATEMENT. Effective January 1, 1990, the following form shall be the standard UCC-3 Form prescribed by the department of licensing:

**CHANGE STATEMENT INSTRUCTIONS
UCC-3**

1. **COMPLETION OF FORM:** Please type or print the information presented on this form clearly and accurately. If you make an error, be certain to correct all copies. Information from the copies will be microfilmed and recorded exactly as you present it. The UCC-3 form must contain the name and mailing address of the debtor, the name and address of the secured party, the file number and date of the original financing statement, and a description of the action, where applicable.
2. **DEBTOR AND SECURED PARTY NAMES:** The legal name of the debtor, secured party or assignee is required as it appeared on your original filing. When the debtor name is a personal name, check the personal box and enter the Social Security number. If the debtor name is a business name, check the business box and enter the federal employer identification number (FEIN). If the filing is being made under both personal and business names, both boxes should be checked. Trade names, DBAs or AKAs (including nicknames), may also be entered in the space provided.
If more than one debtor is ((listed please follow the same procedure for each named debtor)) named, please identify the tax number belonging to each name.
3. **SIGNATURES:** The signature of the secured party of record is required on all change actions. If the name of the secured party has changed and you have not submitted a change statement, the past and current legal name(s) of the secured party(ies) must be typed above the appropriate signatures. An amendment also requires the signature of the debtor(s) unless the amendment is only to change the name or address of the secured party.
4. **ATTACHMENTS:** If the space provided in any box is inadequate, type or print the words "See Attachments" within the box and continue the information on additional 8 1/2" x 11" sheets. Enter the total number of attached sheets in box 6. Include copies of the attached sheets only if you want copies of the attachments returned. If any attachments are added to the filing form, the fee is \$7.00 for each action.
5. **MULTIPLE ACTIONS:** If more than one action is requested on a single form, a fee is charged for each action except termination which requires no fee. Multiple changes may be made to a single UCC file number using a single UCC-3 form, except for terminations which may not be combined with any other change.
6. **MAILING:** Send copies 1 and 2 to the address provided in box 12. Do not remove the carbons between these pages. Use an envelope 9 1/2" x 6 1/2" to prevent mutilation during the automated mail opening process.
7. **FILING FEES:** The fee for filing each action requested in box 7 of the UCC-3 ((~~R/12/88~~)) (R/10/89) is (((\$4.00))) \$7.00, except for termination which requires no fee. If additional sheets are attached for any of the actions (except termination) the filing fee for each action shall be (((\$7.00))) \$14.00. Filings will not be recorded unless sufficient payment is received. Checks should be made payable to the department of licensing.

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-3 CHANGE STATEMENT is presented for filing pursuant to the Washington Uniform Commercial Code, chapter 62A.9; Crop Lien filings, chapter 60.11 and Processor and Preparer Liens chapter 60.13 RCW.

1. DEBTOR(S) (see instruction #2)

PERSONAL (last, first, middle name and address) SSN: _____

BUSINESS (legal business name and address) FEIN: _____

2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX

TRADE NAME, DBA, AKA: _____

3. SECURED PARTY(IES) (name and address)**4. ASSIGNEE(S) OF SECURED PARTY(IES) if applicable
(name and address)**

5. This change statement effects the original filing statement recorded with the Department of Licensing. List one number and date only.
Original filing number _____ Dated _____

6. FEES: A \$4.00 filing fee is required for each action checked in box 7, except termination which requires no fee. If additional sheets are attached for any of the actions, the filing fee for each action shall be \$7.00.
NUMBER OF ADDITIONAL SHEET(S) ATTACHED: _____

7. Please check one or more of the following actions:

- CONTINUATION. The original financing statement between the Debtor(s) and Secured Party(ies), bearing file number shown in box 5, is still effective.
- FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number shown in box 5 have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
- PARTIAL ASSIGNMENT. The Secured Party's rights under the financing statement bearing file number shown in box 5, to the property described in box 8, have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
- AMENDMENT. Financing statement bearing file number shown in box 5 is amended as set forth in box 8.
- PARTIAL RELEASE. Secured Party releases the collateral described in box 8 from the financing statement bearing file number shown in box 5.
- TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown in box 5.

B. DESCRIPTION of partial assignment, amendment or partial release: (Attach additional 8 1/2" x 11" sheet(s) if needed.)**9. DEBTOR NAME(S) AND SIGNATURE(S)****10. SECURED PARTY NAME(S) AND SIGNATURE(S)**

TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1

TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF SECURED PARTY(IES)

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF SECURED PARTY(IES)

11. RETURN ACKNOWLEDGMENT COPY TO:**12. FILE WITH:**

UNIFORM COMMERCIAL CODE
DEPARTMENT OF LICENSING
P.O. BOX 9860
OLYMPIA, WA 98504

MAKE CHECKS PAYABLE TO THE
DEPARTMENT OF LICENSING

13. FOR OFFICE USE ONLY:

Images To
Be Filmed

FORM APPROVED FOR USE IN THE
STATE OF WASHINGTON (R/12/88)

PLEASE TYPE FORM—IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-3 CHANGE STATEMENT is presented for filing pursuant to the Washington Uniform Commercial Code, chapter 62A.9; Crop Lien filings, chapter 60.11 and Processor and Preparer Liens chapter 60.13 RCW.

1. DEBTOR(S) (see instruction 10)

PERSONAL (last, first, middle name and address) SSN: _____

BUSINESS (legal business name and address) FEIN: _____

2.. FOR OFFICE USE ONLY—DO NOT WRITE IN THIS BOX

TRADE NAME, DBA, AKA:

3. SECURED PARTY(IES) (name and address)

4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable
(name and address)

5. This change statement effects the original filing statement recorded with the Department of Licensing. List one number and date only.
Original filing number _____ Dated _____

6. FEES: A \$4.00 filing fee is required for each action checked in box 7, except termination which requires no fee. If additional sheets are attached for any of the actions, the filing fee for each action shall be \$7.00.
NUMBER OF ADDITIONAL SHEET(S) ATTACHED: _____

7. Please check one or more of the following actions:

- CONTINUATION. The original financing statement between the Debtor(s) and Secured Party(ies), bearing file number shown in box 5, is still effective.
- FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number shown in box 5 have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
- PARTIAL ASSIGNMENT. The Secured Party's rights under the financing statement bearing file number shown in box 5, to the property described in box 8, have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
- AMENDMENT. Financing statement bearing file number shown in box 5 is amended as set forth in box 8.
- PARTIAL RELEASE. Secured Party releases the collateral described in box 8 from the financing statement bearing file number shown in box 5.
- TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown in box 5.

8. DESCRIPTION of partial assignment, amendment or partial release: (Attach additional 8½" x 11" sheet(s) if needed.)

9. DEBTOR NAME(S) AND SIGNATURE(S)

10. SECURED PARTY NAME(S) AND SIGNATURE(S)

TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1

TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF SECURED PARTY(IES)

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF SECURED PARTY(IES)

11. RETURN ACKNOWLEDGMENT COPY TO:

12. FILE WITH:

UNIFORM COMMERCIAL CODE
DEPARTMENT OF LICENSING
P.O. BOX 9660
OLYMPIA, WA 98504

MAKE CHECKS PAYABLE TO THE
DEPARTMENT OF LICENSING

13. FOR OFFICE USE ONLY:

Images To
Be Filmed

FORM APPROVED FOR USE IN THE
STATE OF WASHINGTON (R/12/88)

PLEASE TYPE FORM—IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-3 CHANGE STATEMENT is presented for filing pursuant to the Washington Uniform Commercial Code, chapter 62A.9; Crop Lien filings, chapter 60.11 and Processor and Preparer Liens chapter 60.13 RCW.

1. DEBTOR(S) (see instruction #2)

PERSONAL (last, first, middle name and address) SSN: _____
 BUSINESS (legal business name and address) FEIN: _____

2. FOR OFFICE USE ONLY—DO NOT WRITE IN THIS BOX

TRADE NAME, DBA, AKA:

3. SECURED PARTY(IES) (name and address)

4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable
(name and address)

5. This change statement effects the original filing statement recorded with the Department of Licensing. List one number and date only.
Original filing number _____ Dated _____

6. FEES: A \$4.00 filing fee is required for each action checked in box 7, except termination which requires no fee. If additional sheets are attached for any of the actions, the filing fee for each action shall be \$7.00.

NUMBER OF ADDITIONAL SHEET(S) ATTACHED: _____

7. Please check one or more of the following actions:

- CONTINUATION. The original financing statement between the Debtor(s) and Secured Party(ies), bearing file number shown in box 5, is still effective.
- FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number shown in box 5 have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
- PARTIAL ASSIGNMENT. The Secured Party's rights under the financing statement bearing file number shown in box 5, to the property described in box 8, have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
- AMENDMENT. Financing statement bearing file number shown in box 5 is amended as set forth in box 8.
- PARTIAL RELEASE. Secured Party releases the collateral described in box 8 from the financing statement bearing file number shown in box 5.
- TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown in box 5.

8. DESCRIPTION of partial assignment, amendment or partial release: (Attach additional 8 1/2" x 11" sheet(s) if needed.)

9. DEBTOR NAME(S) AND SIGNATURE(S)

10. SECURED PARTY NAME(S) AND SIGNATURE(S)

TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1

TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF SECURED PARTY(IES)

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF SECURED PARTY(IES)

11. RETURN ACKNOWLEDGMENT COPY TO:

12. FILE WITH:

UNIFORM COMMERCIAL CODE
DEPARTMENT OF LICENSING
P.O. BOX 9660
OLYMPIA, WA 98504

MAKE CHECKS PAYABLE TO THE
DEPARTMENT OF LICENSING

13. FOR OFFICE USE ONLY:

Images To
Be Filmed

FORM APPROVED FOR USE IN THE
STATE OF WASHINGTON (R/12/88)

PLEASE TYPE FORM—IF AN ERROR IS MADE, CORRECT ALL COPIES
 This UCC-3 CHANGE STATEMENT is presented for filing pursuant to the Washington Uniform Commercial Code, chapter 62A.9; Crop Liens filings, chapter 60.11 and Processor and Preparer Liens chapter 60.13 RCW.

1. DEBTOR(S) (see instruction #2) <input type="checkbox"/> PERSONAL (last, first, middle name and address) SSN: _____ <input type="checkbox"/> BUSINESS (legal business name and address) FEIN: _____	2. FOR OFFICE USE ONLY—DO NOT WRITE IN THIS BOX
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TRADE NAME, DBA, AKA:

3. SECURED PARTY(IES) (name and address)

4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable
(name and address)

5. This change statement effects the original filing statement recorded with the Department of Licensing. List one number and date only.
 Original filing number: _____ Dated: _____

6. FEES: A \$4.00 filing fee is required for each action checked in box 7, except termination which requires no fee. If additional sheets are attached for any of the actions, the filing fee for each action shall be \$7.00.

NUMBER OF ADDITIONAL SHEET(S) ATTACHED: _____

7. Please check one or more of the following actions:

- CONTINUATION. The original financing statement between the Debtor(s) and Secured Party(ies), bearing file number shown in box 5, is still effective.
- FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number shown in box 5 have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
- PARTIAL ASSIGNMENT. The Secured Party's rights under the financing statement bearing file number shown in box 5, to the property described in box 8, have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
- AMENDMENT. Financing statement bearing file number shown in box 5 is amended as set forth in box 8.
- PARTIAL RELEASE. Secured Party releases the collateral described in box 8 from the financing statement bearing file number shown in box 5.
- TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown in box 5.

8. DESCRIPTION of partial assignment, amendment or partial release: (Attach additional 8 1/2" x 11" sheet(s) if needed.)

9. DEBTOR NAME(S) AND SIGNATURE(S)

TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF DEBTOR(S)

10. SECURED PARTY NAME(S) AND SIGNATURE(S)

TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4

SIGNATURE(S) OF SECURED PARTY(IES)

SIGNATURE(S) OF SECURED PARTY(IES)

11. RETURN ACKNOWLEDGMENT COPY TO:

COPY 4 – FILE COPY – SECURED PARTY

WASHINGTON UCC-3

12. FILE WITH:

UNIFORM COMMERCIAL CODE
 DEPARTMENT OF LICENSING
 P.O. BOX 9660
 OLYMPIA, WA 98504

MAKE CHECKS PAYABLE TO THE
 DEPARTMENT OF LICENSING

13. FOR OFFICE USE ONLY:

Images To
Be Filmed

FORM APPROVED FOR USE IN THE
 STATE OF WASHINGTON (R/12/88)

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-3 CHANGE STATEMENT is presented for filing pursuant to the Washington Uniform Commercial Code, chapter 62A.9; Crop Lien filings, chapter 60.11 and Processor and Preparer Laws chapter 60.13 RCW.

<p>1. DEBTOR(S) (see instruction #2)</p> <p>PERSONAL (last, first, middle name and address)</p> <p>BUSINESS (legal business name and address)</p>	<p>Debtor 1</p> <p>SSN: _____</p> <p>FEIN: _____</p> <p>Debtor 2</p> <p>SSN: _____</p> <p>FEIN: _____</p>	<p>2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX</p>
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TRADE NAME, DBA, AKA:

<p>3. SECURED PARTY(IES) (<i>name and address</i>)</p> <p>[] [] [] []</p>	<p>4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable (<i>name and address</i>)</p> <p>[] [] [] []</p>
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5. This change statement effects the original filing statement recorded with the Department of Licensing. List one number and date only.
 Original filing number _____ Dated _____

6. FEES: A \$7.00 filing fee is required for each action checked in box 7, except termination which requires no fee. If additional sheets are attached for any of the actions, the filing fee for each action shall be \$14.00.

NUMBER OF ADDITIONAL SHEET(S) ATTACHED: _____

7. Please check one or more of the following actions:

 - CONTINUATION. The original financing statement between the Debtor(s) and Secured Party(ies), bearing file number shown in box 5, is still effective.
 - FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number shown in box 5 have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
 - PARTIAL ASSIGNMENT. The Secured Party's rights under the financing statement bearing file number shown in box 5, to the property described in box 8, have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
 - AMENDMENT. Financing statement bearing file number shown in box 5 is amended as set forth in box 8.
 - PARTIAL RELEASE. Second Party releases the collateral described in box 8 from the financing statement bearing file number shown in box 5.
 - TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown in box 5.

8. DESCRIPTION of partial assignment, amendment or partial release: *(Attach additional 8 1/2" x 11" sheets if needed)*

8. DESCRIPTION of partial assignment, amendment or partial release: (Attach additional 8½" x 11" sheet(s) if needed.)

<p>9. DEBTOR NAME(S) AND SIGNATURE(S)</p> <hr/> <p>TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1</p> <hr/> <p>SIGNATURE(S) OF DEBTOR(S)</p> <hr/> <p>SIGNATURE(S) OF DEBTOR(S)</p>	<p>10. SECURED PARTY NAME(S) AND SIGNATURE(S)</p> <hr/> <p>TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4</p> <hr/> <p>SIGNATURE(S) OF SECURED PARTY(IES)</p> <hr/> <p>SIGNATURE(S) OF SECURED PARTY(IES)</p>
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GIVEN UNDER OATH, DEBTOR(S)		SIGNATURE(S) OF SECURED PARTY(IES)
11. RETURN ACKNOWLEDGMENT COPY TO:		12. FILE WITH:
<input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____		UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504-8007 MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING
		13. FOR OFFICE USE ONLY:
		<input type="checkbox"/> Images To Be Filmed
FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/10/89)		

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-3 CHANGE STATEMENT is presented for filing pursuant to the Washington Uniform Commercial Code, chapter 62A.9; Crop Lien filings, chapter 60.11 and Processor and Preparer Liens chapter 60.13 RCW.

1. DEBTOR(S) (see instruction #2) <input type="checkbox"/> PERSONAL (last, first, middle name and address) <input type="checkbox"/> BUSINESS (legal business name and address)		Debtor 1 SSN: _____ FEIN: _____ Debtor 2 SSN: _____ FEIN: _____	2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX
TRADE NAME, DBA, AKA: 3. SECURED PARTY(IES) (name and address)		4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable (name and address)	
5. This change statement effects the original filing statement recorded with the Department of Licensing. List one number and date only. Original filing number: _____ Dated: _____			
6. FEES: A \$7.00 filing fee is required for each action checked in box 7, except termination which requires no fee. If additional sheets are attached for any of the actions, the filing fee for each action shall be \$14.00. NUMBER OF ADDITIONAL SHEET(S) ATTACHED: _____			
7. Please check one or more of the following actions: <input type="checkbox"/> CONTINUATION. The original financing statement between the Debtor(s) and Secured Party(ies), bearing file number shown in box 5, is still effective. <input type="checkbox"/> FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number shown in box 5 have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4. <input type="checkbox"/> PARTIAL ASSIGNMENT. The Secured Party's rights under the financing statement bearing file number shown in box 5, to the property described in box 8, have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4. <input type="checkbox"/> AMENDMENT. Financing statement bearing file number shown in box 5 is amended as set forth in box 8. <input type="checkbox"/> PARTIAL RELEASE. Secured Party releases the collateral described in box 8 from the financing statement bearing file number shown in box 5. <input type="checkbox"/> TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown in box 5.			
8. DESCRIPTION of partial assignment, amendment or partial release: (Attach additional 8½" x 11" sheet(s) if needed.)			
9. DEBTOR NAME(S) AND SIGNATURE(S) TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1 SIGNATURE(S) OF DEBTOR(S) SIGNATURE(S) OF DEBTOR(S)		10. SECURED PARTY NAME(S) AND SIGNATURE(S) TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4 SIGNATURE(S) OF SECURED PARTY(IES) SIGNATURE(S) OF SECURED PARTY(IES)	
11. RETURN ACKNOWLEDGMENT COPY TO:		12. FILE WITH: UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504-8007 MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING 13. FOR OFFICE USE ONLY: Images To Be Filmed <input type="checkbox"/>	
FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/10/89)			

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-3 CHANGE STATEMENT is presented for filing pursuant to the Washington Uniform Commercial Code, chapter 62A.9; Crop Lien filings, chapter 60.11 and Processor and Preparer Liens chapter 60.13 RCW.

1. DEBTOR(S) (see instruction #2) <input type="checkbox"/> PERSONAL (last, first, middle name and address) <input type="checkbox"/> BUSINESS (legal business name and address)		Debtor 1 SSN: _____ FEIN: _____ Debtor 2 SSN: _____ FEIN: _____		2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX	
TRADE NAME, DBA, AKA: 3. SECURED PARTY(IES) (name and address) <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>				4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable (name and address) <input type="checkbox"/>	
5. This change statement effects the original filing statement recorded with the Department of Licensing. List one number and date only. Original filing number: _____ Dated: _____					
6. FILES: A \$7.00 filing fee is required for each action checked in box 7, except termination which requires no fee. If additional sheets are attached for any of the actions, the filing fee for each action shall be \$14.00. NUMBER OF ADDITIONAL SHEET(S) ATTACHED: _____					
7. Please check one or more of the following actions: <ul style="list-style-type: none"> <input type="checkbox"/> CONTINUATION. The original financing statement between the Debtor(s) and Secured Party(ies), bearing file number shown in box 5, is still effective. <input type="checkbox"/> FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number shown in box 5 have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4. <input type="checkbox"/> PARTIAL ASSIGNMENT. The Secured Party's rights under the financing statement bearing file number shown in box 5, to the property described in box 8, have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4. <input type="checkbox"/> AMENDMENT. Financing statement bearing file number shown in box 5 is amended as set forth in box 8. <input type="checkbox"/> PARTIAL RELEASE. Secured Party releases the collateral described in box 8 from the financing statement bearing file number shown in box 5. <input type="checkbox"/> TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown in box 5. 					
8. DESCRIPTION of partial assignment, amendment or partial release: (<i>Attach additional 8½" x 11" sheet(s) if needed.</i>)					
9. DEBTOR NAME(S) AND SIGNATURE(S) TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1 SIGNATURE(S) OF DEBTOR(S) SIGNATURE(S) OF DEBTOR(S)		10. SECURED PARTY NAME(S) AND SIGNATURE(S) TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4 SIGNATURE(S) OF SECURED PARTY(IES) SIGNATURE(S) OF SECURED PARTY(IES)		11. RETURN ACKNOWLEDGMENT COPY TO: <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
				12. FILE WITH: UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504-8007 MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING 13. FOR OFFICE USE ONLY: Images To Be Filmed <input type="checkbox"/> FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/10/89)	

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-3 CHANGE STATEMENT is presented for filing pursuant to the Washington Uniform Commercial Code, chapter 62A.9; Crop Lien filings, chapter 60.11 and Processor and Preparer Liens chapter 60.13 RCW.

1. DEBTOR(S) (see instruction #2)	<i>Debtor 1</i> SSN: _____
PERSONAL (last, first, middle name and address)	FEIN: _____
BUSINESS (legal business name and address)	<i>Debtor 2</i> SSN: _____ FEIN: _____

2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX

TRADE NAME, DBA, AKA:

3. SECURED PARTY(IES) (name and address)

4. ASSIGNEE(S) OF SECURED PARTY(IES) if applicable
(name and address)

5. This change statement effects the original filing statement recorded with the Department of Licensing. List one number and date only.

Dated

Original filing number _____

6. FEES: A \$7.00 filing fee is required for each action checked in box 7, except termination which requires no fee. If additional sheets are attached for any of the actions, the filing fee for each action shall be \$14.00.

NUMBER OF ADDITIONAL SHEET(S) ATTACHED:

7. Please check one or more of the following actions:

- CONTINUATION. The original financing statement between the Debtor(s) and Secured Party(ies), bearing file number shown in box 5, is still effective.
- FULL ASSIGNMENT. All of the Secured Party's rights under the financing statement bearing file number shown in box 5 have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
- PARTIAL ASSIGNMENT. The Secured Party's rights under the financing statement bearing file number shown in box 5, to the property described in box 8, have been assigned to the Assignee(s) whose name(s) and address(es) appear in box 4.
- AMENDMENT. Financing statement bearing file number shown in box 5 is amended as set forth in box 8.
- PARTIAL RELEASE. Secured Party releases the collateral described in box 8 from the financing statement bearing file number shown in box 5.
- TERMINATION. Secured Party(ies) no longer claims a security interest under the financing statement bearing file number shown in box 5.

8. DESCRIPTION of partial assignment, amendment or partial release: (Attach additional 8 1/2" x 11" sheet(s) if needed.)

9. DEBTOR NAME(S) AND SIGNATURE(S)

TYPE NAME(S) OF DEBTOR(S) AS IT APPEARS IN BOX 1

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE(S) OF DEBTOR(S)

10. SECURED PARTY NAME(S) AND SIGNATURE(S)

TYPE NAME(S) OF SECURED PARTY(IES) AS IT APPEARS IN BOX 3 OR 4

SIGNATURE(S) OF SECURED PARTY(IES)

SIGNATURE(S) OF SECURED PARTY(IES)

11. RETURN ACKNOWLEDGMENT COPY TO:



12. FILE WITH:

UNIFORM COMMERCIAL CODE
DEPARTMENT OF LICENSING
P.O. BOX 9660
OLYMPIA, WA 98504-8007

MAKE CHECKS PAYABLE TO THE
DEPARTMENT OF LICENSING

13. FOR OFFICE USE ONLY:

Images To
Be Filmed

FORM APPROVED FOR USE IN THE
STATE OF WASHINGTON (R/10/89)

AMENDATORY SECTION (Amending Order BLS 130, filed 3/1/89)

WAC 308-400-047 UCC-4 CROP LIENS AND PROCESSOR AND PREPARER LIENS FOR AGRICULTURAL DAIRY AND COMMERCIAL FISH PRODUCTS FILING FORM. Effective January 1, 1990, the following form shall be the standard UCC-4 form prescribed by the department of licensing.

**LIEN FILING INSTRUCTIONS
UCC-4**

1. **COMPLETION OF FORM:** Please type or print the information presented on this form clearly and accurately. If you make an error, be certain to correct all copies. Information from the copies will be microfilmed and recorded exactly as you present it.
2. **LIEN DEBTOR AND LIEN HOLDER/CLAIMANT:** The legal name of the debtor, secured party or assignee is required. When the debtor name is a personal name, check the personal box and enter the Social Security number. If the debtor name is a business name, check the business box and enter the federal employer identification number (FEIN). If the filing is being made under both personal and business names, both boxes should be checked. Trade names, DBAs or AKAs (including nicknames), may also be entered in box 1.
If more than one debtor is (~~listed please follow the same procedure for each named debtor~~) named, please identify the tax number belonging to each name.
3. **ATTACHMENTS:** If space provided in any box is inadequate, type or print the words "See Attachments" in the box and continue the information on additional 8 1/2" by 11" sheets. Enter the total number of attached sheets in box 7. Include copies of the attached sheets only if you want copies of the attachments returned. If any attachments are added to the filing form, the fee is \$7.00.
4. **MAILING:** Send copies 1 and 2 to the address provided in box 10. Do not remove the carbons between these pages. Use an envelope 9 1/2" x 6 1/2" to prevent mutilation during the automated mail opening process.
5. **TERMINATION:** To terminate a filing, send the acknowledgment (copy 2) back to the Department of Licensing with the termination statement signed by the lien holder/claimant of record. The UCC-3 form also may be used as a termination statement. Fees are not charged for the termination of liens.
If the name of the secured party or the assignee (if an assignment has been made) is a business name, then the exact name of the business must appear directly above the signature of the person representing the secured party.
6. **FILING FEES:** The fee for filing a UCC-4 ((~~R/12/88~~)) (R/10/89) is ((\$4.00)) \$7.00. If any other form is used or additional sheet(s) have been attached, the filing fee is ((\$7.00)) \$14.00. Filings will not be recorded unless the proper fee is sent. Checks should be made payable to the department of licensing.

PLEASE TYPE FORM - IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-4 statement is presented for filing a crop lien pursuant to chapter 60.11 RCW, or a processor and preparer lien for agricultural and commercial fish products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below. If the form is used to secure a Processor and Preparer Lien for Agricultural or Commercial Fish Products, the term lien debtor is to be construed as a processor, preparer, or conditioner and the lien holder/claimant is to be construed as the producer.

1. LIEN DEBTOR(S) (see instruction #2) <input type="checkbox"/> PERSONAL (last, first, middle name and address) SSN: _____ <input type="checkbox"/> BUSINESS (legal business name and address) FEIN: _____	2. FOR OFFICE USE ONLY - DO NOT WRITE IN THIS BOX
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3. LIEN HOLDER/CLAIMANT (name and address) <div style="border: 1px solid black; height: 100px; width: 100%;"></div>	4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable (name and address) <div style="border: 1px solid black; height: 100px; width: 100%;"></div>
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5. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed: _____
6. TYPE OF LIEN: LANDLORD SUPPLIER PREPARER PROCESSOR CONDITIONER
7. FEES: Filing fee . . . \$4.00 Filing fee with attachments . . . \$7.00 Number of additional sheets presented: _____
8. LANDLORD/SUPPLIER: Describe the labor, services, materials or supplies covered by this statement. PREPARER/PROCESSOR/CONDITIONER: Describe the agricultural or commercial fish product to be charged with the lien. Include the amount demanded after deducting credits and offsets. (Attach additional 8½" x 11" sheet(s) if needed.)

9. RETURN ACKNOWLEDGMENT COPY TO: (name and address) <div style="border: 1px solid black; height: 100px; width: 100%;"></div>	10. FILE WITH: UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504 MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING 11. FOR OFFICE USE ONLY IMAGES TO BE FILMED <input type="checkbox"/>
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12. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP (Attach additional 8½" x 11" sheet(s) if needed)

COUNTY IN WHICH CROP IS GROWN: <div style="border: 1px solid black; width: 100%; height: 20px;"></div>	13. PRODUCER'S STATEMENT FOR PREPARER/PROCESSOR LIENS: I declare that the amount claimed is a true and bona fide existing debt as of the date of the filing or the notice evidencing the lien.
14. TYPE NAME OF THE LIEN HOLDER/CLAIMANT OR PRODUCER exactly as entered in box 3.	15. DATE PAYMENT IS DUE
16. SIGNATURE OF LIEN HOLDER/CLAIMANT OR PRODUCER I verify that the information contained on this statement is true and accurate.	

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88)
WASHINGTON UCC-4

COPY 1 - FILING OFFICE

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-4 statement is presented for filing a crop lien pursuant to chapter 60.11 RCW, or a processor and preparer lien for agricultural and commercial fish products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below. If the form is used to secure a Processor and Preparer Lien for Agricultural or Commercial Fish Products, the term lien debtor is to be construed as a processor, preparer, or conditioner and the lien holder/claimant is to be construed as the producer.

1. LIEN DEBTOR(S) <input type="checkbox"/> PERSONAL (last, first, middle name and address) SSN: _____ <input type="checkbox"/> BUSINESS (legal business name and address) FEIN: _____	2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX
TRADE NAME, DBA, AKA:	
3. LIEN HOLDER/CLAIMANT (name and address)	4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable (name and address)
5. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed: _____	
6. TYPE OF LIEN: <input type="checkbox"/> LANDLORD <input type="checkbox"/> SUPPLIER <input type="checkbox"/> PREPARER <input type="checkbox"/> PROCESSOR <input type="checkbox"/> CONDITIONER	
7. FEES: Filing fee . . . \$4.00 Filing fee with attachments . . . \$7.00 Number of additional sheets presented: _____	
8. LANDLORD/SUPPLIER: Describe the labor, services, materials or supplies covered by this statement. PREPARER/PROCESSOR/CONDITIONER: Describe the agricultural or commercial fish product to be charged with the lien. Include the amount demanded after deducting credits and offsets. (Attach additional 8½" x 11" sheet(s) if needed.)	
\$ _____	
9. RETURN ACKNOWLEDGMENT COPY TO: (name and address)	10. FILE WITH: UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504 MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING
11. FOR OFFICE USE ONLY IMAGES TO BE FILMED <input type="checkbox"/>	
12. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP: (Attach additional 8½" x 11" sheet(s) if needed)	

COUNTY IN WHICH CROP IS GROWN:

LIEN TERMINATION STATEMENT OR STATEMENT OF DISCHARGE: The LIEN HOLDER(S) certifies that the LIEN HOLDER(S) no longer claims an interest under the CROP LIEN, PREPARER, PROCESSOR OR CONDITIONER LIEN bearing the file number shown above.

PRINT OR TYPE NAME AS IT APPEARS IN BOX 3 OR 4. (see instruction #5)
Date _____

Return to: Uniform Commercial Code
Department of Licensing
P.O. Box 9660
Olympia, WA 98504

Signature _____

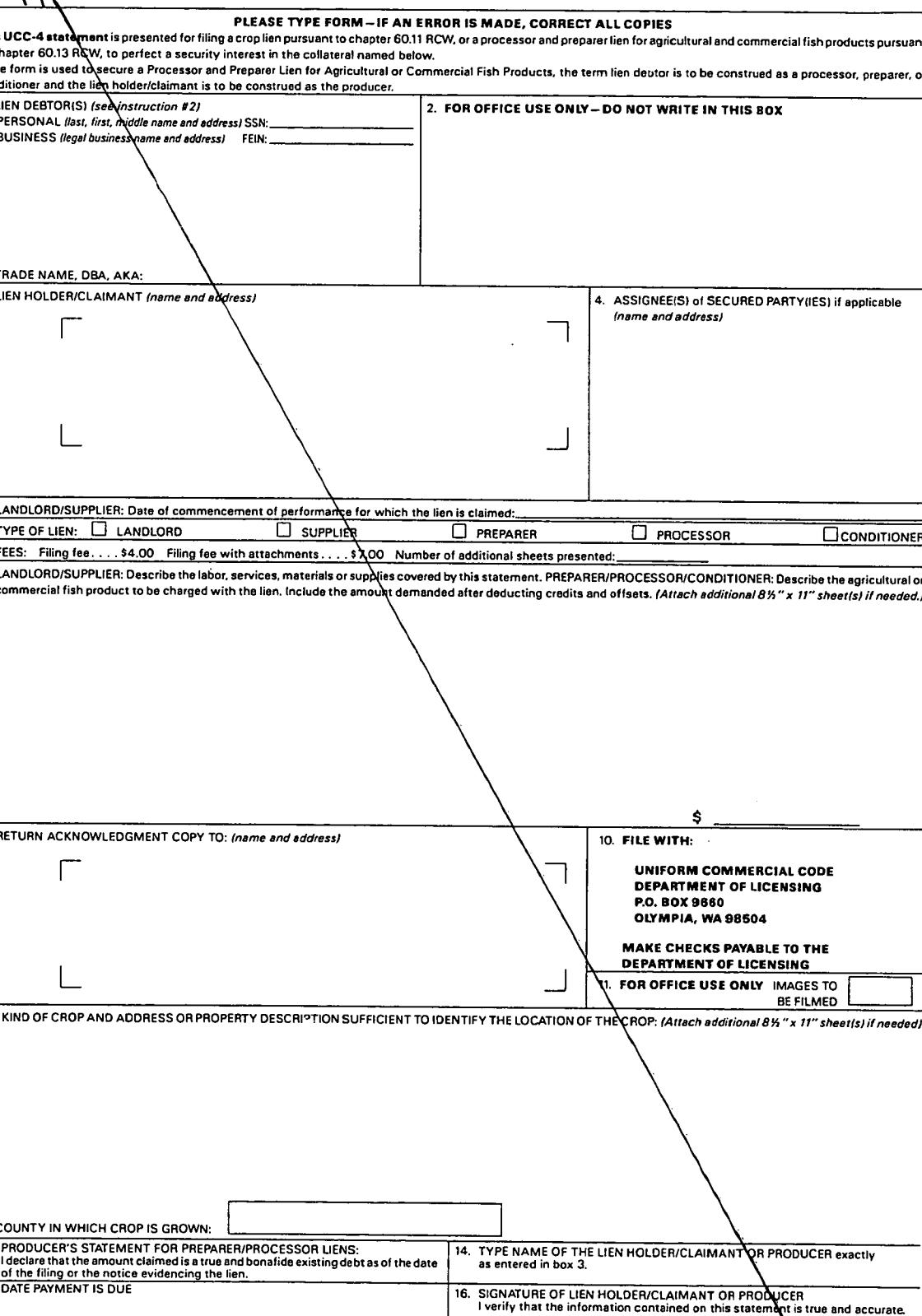
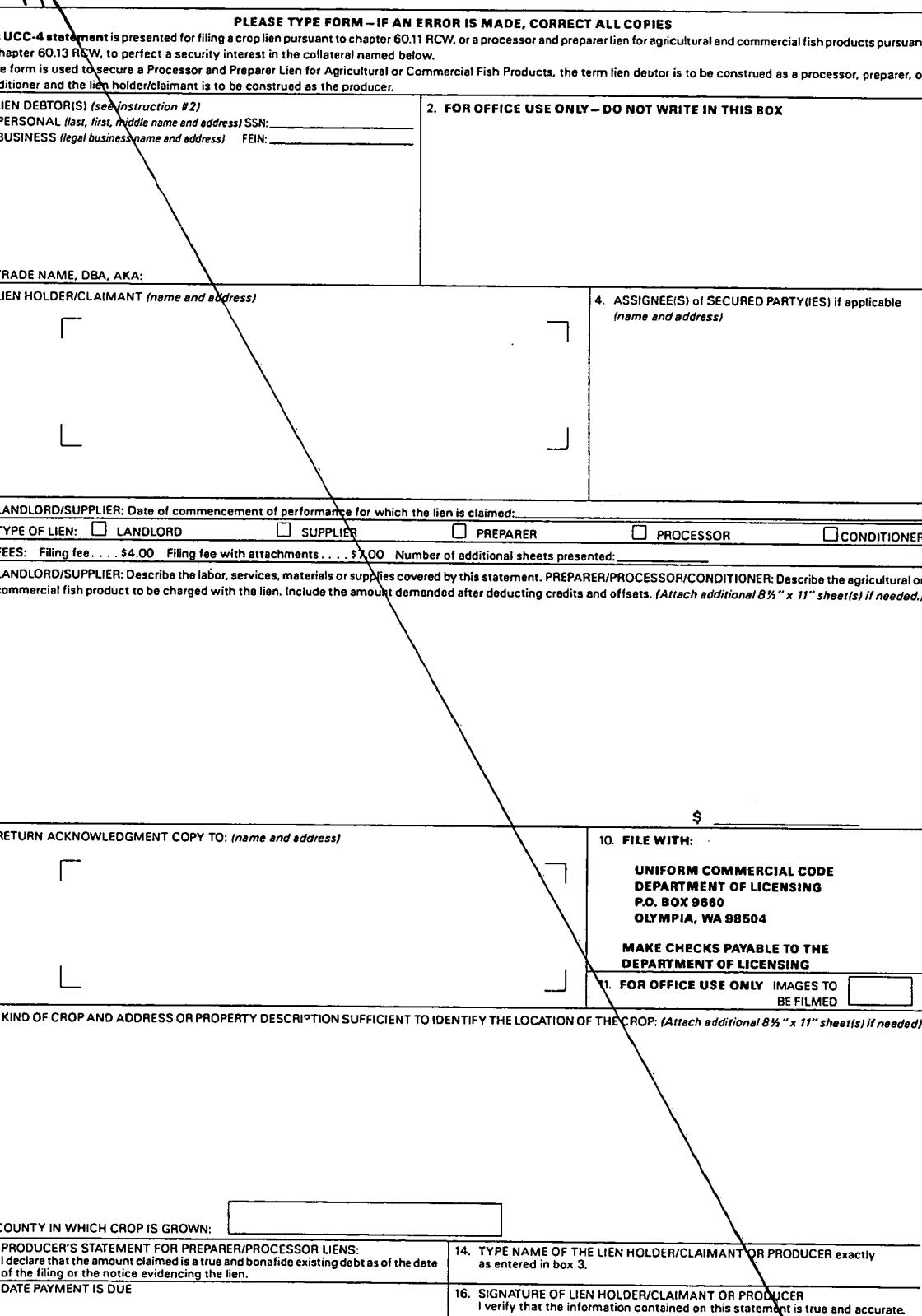
COPY 2 FILE COPY – ACKNOWLEDGMENT

WASHINGTON UCC-4 (R/12/88)

PLEASE TYPE FORM — IF AN ERROR IS MADE, CORRECT ALL COPIES	
<p>This UCC-4 statement is presented for filing a crop lien pursuant to chapter 60.11 RCW, or a processor and preparer lien for agricultural and commercial fish products pursuant to chapter 60.10 RCW, to perfect a security interest in the collateral named below.</p> <p>If the form is used to secure a Processor and Preparer Lien for Agricultural or Commercial Fish Products, the term lien debtor is to be construed as a processor, preparer, or conditioner and the lien holder/claimant is to be construed as the producer.</p>	
<p>1. LIEN DEBTOR(S) <i>(See instruction #2)</i> <input type="checkbox"/> PERSONAL (last, first, middle name and address) SSN: _____ <input type="checkbox"/> BUSINESS (legal business name and address) FEIN: _____</p>	<p>2. FOR OFFICE USE ONLY—DO NOT WRITE IN THIS BOX</p>
<p>TRADE NAME, DBA, AKA: _____</p>	
<p>3. LIEN HOLDER/CLAIMANT (<i>name and address</i>) <input type="checkbox"/> _____</p>	<p>4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable <i>(name and address)</i> <input type="checkbox"/> _____</p>
<p>5. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed: _____</p>	
<p>6. TYPE OF LIEN: <input type="checkbox"/> LANDLORD <input type="checkbox"/> SUPPLIER <input type="checkbox"/> PREPARER <input type="checkbox"/> PROCESSOR <input type="checkbox"/> CONDITIONER</p>	
<p>7. FEES: Filing fee . . . \$4.00 Filing fee with attachments . . . \$7.00 Number of additional sheets presented: _____</p>	
<p>8. LANDLORD/SUPPLIER: Describe the labor, services, materials or supplies covered by this statement. PREPARER/PROCESSOR/CONDITIONER: Describe the agricultural or commercial fish product to be charged with the lien. Include the amount demanded after deducting credits and offsets. <i>(Attach additional 8 1/2" x 11" sheet(s) if needed.)</i></p>	
<p>9. RETURN ACKNOWLEDGMENT COPY TO: <i>(name and address)</i> <input type="checkbox"/> _____</p>	
<p>10. FILE WITH: UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9860 OLYMPIA, WA 98504 MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING 11. FOR OFFICE USE ONLY IMAGES TO BE FILMED <input type="checkbox"/> _____</p>	
<p>12. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP: <i>(Attach additional 8 1/2" x 11" sheet(s) if needed)</i> <input type="checkbox"/> _____</p>	
<p>COUNTY IN WHICH CROP IS GROWN: <input type="checkbox"/> _____</p>	
<p>13. PRODUCER'S STATEMENT FOR PREPARER/PROCESSOR LIENS: I declare that the amount claimed is a true and bona fide existing debt as of the date of the filing or the notice evidencing the lien.</p>	<p>14. TYPE NAME OF THE LIEN HOLDER/CLAIMANT OR PRODUCER exactly as entered in box 3.</p>
<p>15. DATE PAYMENT IS DUE</p>	<p>16. SIGNATURE OF LIEN HOLDER/CLAIMANT OR PRODUCER I verify that the information contained on this statement is true and accurate.</p>

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-4 statement is presented for filing a crop lien pursuant to chapter 60.11 RCW, or a processor and preparer lien for agricultural and commercial fish products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below. If the form is used to secure a Processor and Preparer Lien for Agricultural or Commercial Fish Products, the term lien debtor is to be construed as a processor, preparer, or conditioner and the lien holder/claimant is to be construed as the producer.

1. LIEN DEBTOR(S) (see instruction #2) <input type="checkbox"/> PERSONAL (last, first, middle name and address) SSN: _____ <input type="checkbox"/> BUSINESS (legal business name and address) FEIN: _____		2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX
TRADE NAME, DBA, AKA: 3. LIEN HOLDER/CLAIMANT (name and address) 		4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable (name and address)
5. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed: 6. TYPE OF LIEN: <input type="checkbox"/> LANDLORD <input type="checkbox"/> SUPPLIER <input type="checkbox"/> PREPARER <input type="checkbox"/> PROCESSOR <input type="checkbox"/> CONDITIONER 7. FEES: Filing fee . . . \$4.00 Filing fee with attachments . . . \$10.00 Number of additional sheets presented: _____ 8. LANDLORD/SUPPLIER: Describe the labor, services, materials or supplies covered by this statement. PREPARER/PROCESSOR/CONDITIONER: Describe the agricultural or commercial fish product to be charged with the lien. Include the amount demanded after deducting credits and offsets. (Attach additional 8½" x 11" sheet(s) if needed.)		
9. RETURN ACKNOWLEDGMENT COPY TO: (name and address) 		\$ _____ 10. FILE WITH: UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9860 OLYMPIA, WA 98504 MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING 11. FOR OFFICE USE ONLY IMAGES TO BE FILMED <input type="checkbox"/>
12. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP: (Attach additional 8½" x 11" sheet(s) if needed) COUNTY IN WHICH CROP IS GROWN: <input type="text"/>		
13. PRODUCER'S STATEMENT FOR PREPARER/PROCESSOR LIENS: I declare that the amount claimed is a true and bona fide existing debt as of the date of the filing or the notice evidencing the lien.		14. TYPE NAME OF THE LIEN HOLDER/CLAIMANT OR PRODUCER exactly as entered in box 3.
15. DATE PAYMENT IS DUE		16. SIGNATURE OF LIEN HOLDER/CLAIMANT OR PRODUCER I verify that the information contained on this statement is true and accurate.

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88)
 WASHINGTON UCC-4

COPY 4 – FILE COPY – SECURED PARTY

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This **UCC-4 LIEN STATEMENT** is presented for filing a crop lien pursuant to chapter 60.11 RCW, or a processor and preparer lien for agricultural, dairy and commercial fish products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below. If the form is used to secure a Processor and Preparer Lien for Agricultural, Dairy or Commercial Fish Products, the term lien debtor is to be construed as a processor, preparer, or conditioner and the lien holder/claimant is to be construed as the producer.

<p>1. DEBTOR(S) (see instruction #2)</p> <p><input checked="" type="checkbox"/> PERSONAL (last, first, middle name and address)</p> <p><input type="checkbox"/> BUSINESS (legal business name and address)</p>	<p><i>Debtor 1</i></p> <p>SSN: _____</p> <p>FEIN: _____</p> <p><i>Debtor 2</i></p> <p>SSN: _____</p> <p>FEIN: _____</p>	<p>2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX</p>
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TRADE NAME, DBA, AKA:

<p>3. LIEN HOLDER/CLAIMANT (<i>name and address</i>)</p> <div style="text-align: center; margin-top: 10px;"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div>	<p>4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable (<i>name and address</i>)</p> <div style="text-align: center; margin-top: 10px;"> <input type="checkbox"/> <input type="checkbox"/> </div>
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5. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed:
 LANDLORD SUPPLIER PREPARER PROCESSOR CONDITIONER

6. TYPE OF LIEN: _____

7. FEES: Filing fee . . . \$7.00 Filing fee with attachments . . . \$14.00 Number of additional sheets presented: _____

8. LANDLORD/SUPPLIER: Describe the labor, services, materials or supplies covered by this statement. PREPARER/PROCESSOR/CONDITIONER: Describe the agricultural, dairy or commercial fish product to be charged with the lien. Include the amount demanded after deducting credits and offsets. (Attach additional 8 1/2" x 11" sheet(s) if needed.)

\$

<p>9. RETURN ACKNOWLEDGMENT COPY TO: <i>(name and address)</i></p> <p><input type="text"/> <input type="text"/></p> <p><input type="text"/> <input type="text"/></p>	<p>10. FILE WITH:</p> <p>UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504-8007</p> <p>MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING</p>
<p>11. FOR OFFICE USE ONLY IMAGES TO BE FILMED <input type="checkbox"/></p>	

12. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP: (Attach additional 8 1/2" x 11" sheet(s) if needed)

COUNTY IN WHICH CROP IS GROWN:

ANSWER

13. PRODUCER'S STATEMENT FOR PREPARER/PROCESSOR LIENS: I declare that the amount claimed is a true and bona fide existing debt as of the date of the filing or the notice evidencing the lien.	14. TYPE NAME OF THE LIEN HOLDER/CLAIMANT OR PRODUCER exactly as entered in box 3.
15. DATE PAYMENT IS DUE	16. SIGNATURE OF LIEN HOLDER/CLAIMANT OR PRODUCER I verify that the information contained on this statement is true and accurate.

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/10/89)

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This **UCC-4 LIEN STATEMENT** is presented for filing a crop lien pursuant to chapter 60.11 RCW, or a processor and preparer lien for agricultural, dairy and commercial fish products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below. If the form is used to secure a Processor and Preparer Lien for Agricultural, Dairy or Commercial Fish Products, the term lien debtor is to be construed as a processor, preparer, or conditioner and the lien holder/claimant is to be construed as the producer.

1. DEBTOR(S) (see instruction #2)	Debtor 1
<input type="checkbox"/> PERSONAL (last, first, middle name and address)	SSN: _____
<input type="checkbox"/> BUSINESS (legal business name and address)	FEIN: _____
	Debtor 2
	SSN: _____
	FEIN: _____

2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX

TRADE NAME, DBA, AKA:

3. LIEN HOLDER/CLAIMANT (name and address)

4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable
(name and address)

5. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed:

6. TYPE OF LIEN: LANDLORD SUPPLIER PREPARER PROCESSOR CONDITIONER

7. FEES: Filing fee . . . \$7.00 Filing fee with attachments . . . \$14.00 Number of additional sheets presented:

8. LANDLORD/SUPPLIER: Describe the labor, services, materials or supplies covered by this statement. PREPARER/PROCESSOR/CONDITIONER: Describe the agricultural, dairy or commercial fish product to be charged with the lien. Include the amount demanded after deducting credits and offsets. (Attach additional 8½" x 11" sheet(s) if needed.)

\$ _____

9. RETURN ACKNOWLEDGMENT COPY TO: (name and address)

10. FILE WITH:

UNIFORM COMMERCIAL CODE
DEPARTMENT OF LICENSING
P.O. BOX 9660
OLYMPIA, WA 98504-8007

MAKE CHECKS PAYABLE TO THE
DEPARTMENT OF LICENSING

11. FOR OFFICE USE ONLY IMAGES TO
BE FILMED

12. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP: (Attach additional 8½" x 11" sheet(s) if needed)

COUNTY IN WHICH CROP IS GROWN:

LIEN TERMINATION STATEMENT OR STATEMENT OF DISCHARGE: The LIEN HOLDER(S) certifies that the LIEN HOLDER(S) no longer claims an interest under the CROP LIEN, PREPARER, PROCESSOR OR CONDITIONER LIEN bearing the file number shown above. The acknowledgment of this termination will be returned to the name and address listed in box 9. Please complete or correct box 9 as needed.

PRINT OR TYPE NAME AS IT APPEARS IN BOX 3 OR 4 (see instruction #5)

Date _____

Signature _____

COPY 2 FILING OFFICE ACKNOWLEDGMENT

WASHINGTON UCC-4 (R/10/89)

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This **UCC-4 LIEN STATEMENT** is presented for filing a crop lien pursuant to chapter 60.11 RCW, or a processor and preparer lien for agricultural, dairy and commercial fish products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below.
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<p>1. DEBTOR(S) (see instruction #2)</p> <p><input type="checkbox"/> PERSONAL (last, first, middle name and address)</p> <p><input type="checkbox"/> BUSINESS (legal business name and address)</p>	<p><i>Debtor 1</i> SSN: _____ FEIN: _____</p> <p><i>Debtor 2</i> SSN: _____ FEIN: _____</p>	<p>2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX</p>
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TRADE NAME, DBA, AKA:

<p>3. LIEN HOLDER/CLAIMANT (<i>name and address</i>)</p> <div style="text-align: center; margin-top: 10px;"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div>	<p>4. ASSIGNEE(S) of SECURED PARTY(IES) if applicable (<i>name and address</i>)</p> <div style="text-align: center; margin-top: 10px;"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div>
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5. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed:

6. TYPE OF LIEN: LANDLORD SUPPLIER PREPARER PROCESSOR CONDITIONER

7. FEES: Filing fee . . . \$7.00 Filing fee with attachments . . . \$14.00 Number of additional sheets presented:

8. LANDLORD/SUPPLIER: Describe the labor, services, materials or supplies covered by this statement. PREPARER/PROCESSOR/CONDITIONER: Describe the agricultural, dairy or commercial fish product to be charged with the lien. Include the amount demanded after deducting credits and offsets. (Attach additional 8 1/2" x 11" sheet(s) if needed.)

<p>9. RETURN ACKNOWLEDGMENT COPY TO: <i>(name and address)</i></p> <p>[]</p> <p>[]</p> <p>[]</p>	<p>\$ _____</p> <p>10. FILE WITH:</p> <p>UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504-8007</p> <p>MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING</p> <p>11. FOR OFFICE USE ONLY IMAGES TO BE FILMED []</p>
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12. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP: (Attach additional 8½" x 11" sheet(s) if needed)

COUNTY IN WHICH CROP IS GROWN:

ANSWER

13. PRODUCER'S STATEMENT FOR PREPARER/PROCESSOR LIENS: I declare that the amount claimed is a true and bona fide existing debt as of the date of the filing or the notice evidencing the lien.	14. TYPE NAME OF THE LIEN HOLDER/CLAIMANT OR PRODUCER exactly as entered in box 3.
15. DATE PAYMENT IS DUE	16. SIGNATURE OF LIEN HOLDER/CLAIMANT OR PRODUCER I verify that the information contained on this statement is true and accurate.

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/10/89)

USE IN THE STATE OF
WASHINGTON UCC-4

PLEASE TYPE FORM – IF AN ERROR IS MADE, CORRECT ALL COPIES

This UCC-4 LIEN STATEMENT is presented for filing a crop lien pursuant to chapter 60.11 RCW, or a processor and preparer lien for agricultural, dairy and commercial fish products pursuant to chapter 60.13 RCW, to perfect a security interest in the collateral named below.

If the form is used to secure a Processor and Preparer Lien for Agricultural, Dairy or Commercial Fish Products, the term lien debtor is to be construed as a processor, preparer, or conditioner and the lien holder/claimant is to be construed as the producer.

1. DEBTOR(S) (see instruction #2)	Debtor 1 SSN: _____ FEIN: _____	2. FOR OFFICE USE ONLY – DO NOT WRITE IN THIS BOX
<input type="checkbox"/> PERSONAL (last, first, middle name and address)	<input type="checkbox"/> Debtor 2 SSN: _____ FEIN: _____	
<input type="checkbox"/> BUSINESS (legal business name and address)		

TRADE NAME, DBA, AKA: _____

3. LIEN HOLDER/CLAIMANT (name and address)	4. ASSIGNEE(S) OF SECURED PARTY(IES) if applicable (name and address)
_____	_____
_____	_____
_____	_____

5. LANDLORD/SUPPLIER: Date of commencement of performance for which the lien is claimed: _____
6. TYPE OF LIEN: LANDLORD SUPPLIER PREPARER PROCESSOR CONDITIONER
7. FEES: Filing fee . . . \$7.00 Filing fee with attachments . . . \$14.00 Number of additional sheets presented: _____
8. LANDLORD/SUPPLIER: Describe the labor, services, materials or supplies covered by this statement. PREPARER/PROCESSOR/CONDITIONER: Describe the agricultural, dairy or commercial fish product to be charged with the lien. Include the amount demanded after deducting credits and offsets. (Attach additional 8½" x 11" sheet(s) if needed.)

9. RETURN ACKNOWLEDGMENT COPY TO: (name and address)	10. FILE WITH: UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504-8007 MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING
_____	11. FOR OFFICE USE ONLY IMAGES TO BE FILMED <input type="checkbox"/>

12. KIND OF CROP AND ADDRESS OR PROPERTY DESCRIPTION SUFFICIENT TO IDENTIFY THE LOCATION OF THE CROP: (Attach additional 8½" x 11" sheet(s) if needed)

COUNTY IN WHICH CROP IS GROWN: <input type="checkbox"/>	13. PRODUCER'S STATEMENT FOR PREPARER/PROCESSOR LIENS: I declare that the amount claimed is a true and bona fide existing debt as of the date of the filing or the notice evidencing the lien.	14. TYPE NAME OF THE LIEN HOLDER/CLAIMANT OR PRODUCER exactly as entered in box 3.
15. DATE PAYMENT IS DUE	16. SIGNATURE OF LIEN HOLDER/CLAIMANT OR PRODUCER I verify that the information contained on this statement is true and accurate.	

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/10/89)
WASHINGTON UCC-4

AMENDATORY SECTION (Amending Order BLS 130, filed 3/1/89)

WAC 308-400-048 UCC-11R REQUEST FOR CERTIFICATE OF INFORMATION. Effective January 1, 1990, the following form shall be the standard UCC-11R Form prescribed by the department of licensing:

**SEARCH REQUEST INSTRUCTIONS
UCC-11R**

1. **COMPLETION OF FORM:** Please type or print the information presented on this form clearly and accurately. The search will be conducted using the exact spelling of the debtor name as shown in box 3. If you make an error, be certain to correct all copies.

It would also be helpful to include the Social Security number or the federal employer identification number (FEIN) of the debtor in the space provided in box 3.

2. **ONE DEBTOR NAME PER FORM:** Only the first debtor name on this form will be searched. A separate UCC-11R must be submitted for each debtor name. Please check the appropriate square in box 3 to indicate whether the debtor name is a personal name or a business name.

A husband and wife are considered to be two individual debtors and require separate search request forms. DBAs, AKAs, FKAs and trade names are considered separate debtors and require separate search request forms.

3. **DEBTOR NAME:** Correct spelling of the debtor's name is important. A deviation in spelling or an incomplete name may result in failure to disclose the desired information. If unsure of whether the debtor uses other names or other spellings, requestors may wish to submit an additional search request for each probable name or spelling.

4. **ADDITIONAL ADDRESSES OF THE DEBTOR:** To search the debtor name at any addresses within the city you designate, enter the name of the city. To search the debtor name at any addresses within the county you designate, enter the county name. To search the debtor name at any possible address, check ALL. If a debtor has a post office box in addition to a street address, please list both.

5. **MAILING:** Send copies 1 and 2 to the address shown in box 7. Retain copy 3 for your records.

6. **SEARCH FEES:** The proper filing fees must accompany each search request.

CERTIFICATE OF INFORMATION	\$((4.00))	7.00
CERTIFICATE OF INFORMATION AND COPIES	\$((8.00))	12.00

UCC-11R REQUEST FOR CERTIFICATE OF INFORMATION		PLEASE TYPE FORM. IF AN ERROR IS MADE, CORRECT ALL COPIES	
1. OFFICE USE ONLY-DO NOT WRITE IN THIS BOX		3. DEBTOR NAME (list one debtor per request) <input type="checkbox"/> PERSONAL (last, first, middle name and address) SSN: _____ <input type="checkbox"/> BUSINESS (legal business name and address) FEIN: _____	
2. REQUESTING PARTY (Name and address) L		4. ADDITIONAL DEBTOR ADDRESS(ES) (You may request additional addresses by city or county. All addresses may be requested by checking the ALL box.) CITY _____ COUNTY _____ ALL <input type="checkbox"/>	
5. PLEASE INDICATE BOTH THE TYPE OF SEARCH DESIRED AND THE TYPE OF INFORMATION REQUESTED:			
TYPE OF SEARCH DESIRED: Check one box only. <input type="checkbox"/> All current UCC filings and liens for the debtor named above, at the address(es) shown in box(es) 3 and/or 4. <input type="checkbox"/> Any current UCC filings and liens from _____ to _____. <input type="checkbox"/> Federal tax liens only - partnership and corporation. <input type="checkbox"/> Specific filing numbers listed below in box 7.		TYPE OF INFORMATION REQUESTED: Check one box only. <input type="checkbox"/> Certificate of Information * \$4.00 <input type="checkbox"/> Certificate of Information * and true and exact copies. \$8.00 *CERTIFICATE OF INFORMATION CONTAINS FILE NUMBER, FILE DATE, SECURED PARTY NAME AND ADDRESS.	
6. SPECIFICALLY REQUESTED FILE NUMBER(S)			
7. FORWARD TO: UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504		NOTE: Records of crop related liens and federal liens against the personal property of corporations and partnerships are now filed with the Department of Licensing. Searches of both state and county records should be made during the periods of transition. See Chapters 60.11, 60.13 and 60.68 RCW.	
MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING			
THE DEPARTMENT OF LICENSING HEREBY DISCLAIMS RESPONSIBILITY IN THIS RECORD SEARCH AND CERTIFICATION FOR OTHER THAN THE SPECIFICALLY NAMED DEBTOR AT THE EXACT ADDRESS(ES) CITED IN YOUR REQUEST. SEARCHING A VARIATION OF THE DEBTOR NAME OR ADDITIONAL NAMES REQUIRES SEPARATE REQUEST FORMS AND FEES.			
8. SIGNATURE OF REQUESTING PARTY		9. DATE	

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88)
WASHINGTON UCC-11R

COPY 1-FILING OFFICER))

UCC-11R REQUEST FOR CERTIFICATE OF INFORMATION		PLEASE TYPE FORM. IF AN ERROR IS MADE, CORRECT ALL COPIES				
1. OFFICE USE ONLY-DO NOT WRITE IN THIS BOX		3. DEBTOR NAME (list one debtor per request) <input type="checkbox"/> PERSONAL (last, first, middle name and address) SSN: _____ <input type="checkbox"/> BUSINESS (legal business name and address) FEIN: _____				
2. REQUESTING PARTY (Name and address)		4. ADDITIONAL DEBTOR ADDRESS(ES) (You may request additional addresses by city or county. All addresses may be requested by checking the ALL box.)				
		CITY _____				
		COUNTY _____				
5. PLEASE INDICATE BOTH THE TYPE OF SEARCH DESIRED AND THE TYPE OF INFORMATION REQUESTED: <table border="0"> <tr> <td>TYPE OF SEARCH DESIRED: Check one box only.</td> <td>TYPE OF INFORMATION REQUESTED: Check one box only.</td> </tr> <tr> <td> <input type="checkbox"/> All current UCC filings and liens for the debtor named above, at the address(es) shown in boxes 3 and/or 4. <input type="checkbox"/> Any current UCC filings and liens from _____ to _____ <input type="checkbox"/> Federal tax liens only - partnership and corporation. <input type="checkbox"/> Specific filing numbers listed below in box 7. </td> <td> <input type="checkbox"/> Certificate of Information * \$4.00 <input type="checkbox"/> Certificate of Information * and true and exact copies. \$8.00 *CERTIFICATE OF INFORMATION CONTAINS FILE NUMBER, FILE DATE, SECURED PARTY NAME AND ADDRESS. </td> </tr> </table>			TYPE OF SEARCH DESIRED: Check one box only.	TYPE OF INFORMATION REQUESTED: Check one box only.	<input type="checkbox"/> All current UCC filings and liens for the debtor named above, at the address(es) shown in boxes 3 and/or 4. <input type="checkbox"/> Any current UCC filings and liens from _____ to _____ <input type="checkbox"/> Federal tax liens only - partnership and corporation. <input type="checkbox"/> Specific filing numbers listed below in box 7.	<input type="checkbox"/> Certificate of Information * \$4.00 <input type="checkbox"/> Certificate of Information * and true and exact copies. \$8.00 *CERTIFICATE OF INFORMATION CONTAINS FILE NUMBER, FILE DATE, SECURED PARTY NAME AND ADDRESS.
TYPE OF SEARCH DESIRED: Check one box only.	TYPE OF INFORMATION REQUESTED: Check one box only.					
<input type="checkbox"/> All current UCC filings and liens for the debtor named above, at the address(es) shown in boxes 3 and/or 4. <input type="checkbox"/> Any current UCC filings and liens from _____ to _____ <input type="checkbox"/> Federal tax liens only - partnership and corporation. <input type="checkbox"/> Specific filing numbers listed below in box 7.	<input type="checkbox"/> Certificate of Information * \$4.00 <input type="checkbox"/> Certificate of Information * and true and exact copies. \$8.00 *CERTIFICATE OF INFORMATION CONTAINS FILE NUMBER, FILE DATE, SECURED PARTY NAME AND ADDRESS.					
6. SPECIFICALLY REQUESTED FILE NUMBER(S)						
7. FORWARD TO: UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504		NOTE: Records of crop related liens and federal liens against the personal property of corporations and partnerships are now filed with the Department of Licensing. Searches of both state and county records should be made during the periods of transition. See Chapters 60.11, 60.13 and 60.68 RCW.				
MAKE CHECKS PAYABLE TO THE DEPARTMENT OF LICENSING						
THE DEPARTMENT OF LICENSING HEREBY DISCLAIMS RESPONSIBILITY IN THIS RECORD SEARCH AND CERTIFICATION FOR OTHER THAN THE SPECIFICALLY NAMED DEBTOR AT THE EXACT ADDRESS(ES) CITED IN YOUR REQUEST. SEARCHING A VARIATION OF THE DEBTOR NAME OR ADDITIONAL NAMES REQUIRES SEPARATE REQUEST FORMS AND FEES.						
8. SIGNATURE OF REQUESTING PARTY	9. DATE					

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88)

COPY 2-FILING OFFICER

WASHINGTON UCC-11R

UCC-11R REQUEST FOR CERTIFICATE OF INFORMATION

PLEASE TYPE FORM. IF AN ERROR IS MADE, CORRECT ALL COPIES

1. OFFICE USE ONLY DO NOT WRITE IN THIS BOX

3. DEBTOR NAME (list one debtor per request)
 PERSONAL (last, first, middle name and address) SSN: _____
 BUSINESS (legal business name and address) FEIN: _____

2. REQUESTING PARTY (Name and address)

4. ADDITIONAL DEBTOR ADDRESS(ES) (You may request additional addresses by city or county. All addresses may be requested by checking the ALL box.)

CITY _____

COUNTY _____

ALL **5. PLEASE INDICATE BOTH THE TYPE OF SEARCH DESIRED AND THE TYPE OF INFORMATION REQUESTED:****TYPE OF SEARCH DESIRED: Check one box only.**

- All current UCC filings and liens for the debtor named above, at the address(es) shown in box(es) 3 and/or 4.
- Any current UCC filings and liens from _____ to _____.
- Federal tax liens only - partnership and corporation.
- Specific filing numbers listed below in box 7.

TYPE OF INFORMATION REQUESTED: Check one box only.

- Certificate of Information * \$4.00
- Certificate of Information * and true and exact copies. \$8.00

*CERTIFICATE OF INFORMATION CONTAINS FILE NUMBER, FILE DATE, SECURED PARTY NAME AND ADDRESS.

6. SPECIFICALLY REQUESTED FILE NUMBER(S)

7. FORWARD TO: UNIFORM COMMERCIAL CODE
DEPARTMENT OF LICENSING
P.O. BOX 9660
OLYMPIA, WA 98504

NOTE: Records of crop related liens and federal liens against the personal property of corporations and partnerships are now filed with the Department of Licensing. Searches of both state and county records should be made during the periods of transition. See Chapters 60.11, 60.13 and 60.68 RCW.

MAKE CHECKS PAYABLE TO THE
DEPARTMENT OF LICENSING

THE DEPARTMENT OF LICENSING HEREBY DISCLAIMS RESPONSIBILITY IN THIS RECORD SEARCH AND CERTIFICATION FOR OTHER THAN THE SPECIFICALLY NAMED DEBTOR AT THE EXACT ADDRESS(ES) CITED IN YOUR REQUEST. SEARCHING A VARIATION OF THE DEBTOR NAME OR ADDITIONAL NAMES REQUIRES SEPARATE REQUEST FORMS AND FEES.

8. SIGNATURE OF REQUESTING PARTY

9. DATE

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/12/88)
COPY 3-FILE COPY REQUESTING PARTY

WASHINGTON UCC-11R

UCC-11R REQUEST FOR CERTIFICATE OF INFORMATION		PLEASE TYPE FORM. IF AN ERROR IS MADE, CORRECT ALL COPIES	
1. OFFICE USE ONLY-DO NOT WRITE IN THIS BOX		3. DEBTOR NAME (list one debtor per request) <input type="checkbox"/> PERSONAL (last, first, middle name and address) SSN: _____ <input type="checkbox"/> BUSINESS (legal business name and address) FEIN: _____	
2. REQUESTING PARTY (Name and address) <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		4. ADDITIONAL DEBTOR ADDRESSIES) (You may request additional addresses by city or county. All addresses may be requested by checking the ALL box.) CITY _____ COUNTY _____ <input type="checkbox"/> ALL	
5. PLEASE INDICATE BOTH THE TYPE OF SEARCH DESIRED AND THE TYPE OF INFORMATION REQUESTED:			
TYPE OF SEARCH DESIRED: Check one box only. <input checked="" type="checkbox"/> All current UCC filings and liens for the debtor named above, at the address(es) shown in box(es) 3 and/or 4. <input type="checkbox"/> Any current UCC filings and liens from _____ to _____ <input type="checkbox"/> Federal tax liens only partnership and corporation. <input type="checkbox"/> Specific filing numbers listed below in box 6.		TYPE OF INFORMATION REQUESTED: Check one box only. <input type="checkbox"/> Certificate of Information \$ 7.00 <input type="checkbox"/> Certificate of Information and true and exact copies. \$12.00 'CERTIFICATE OF INFORMATION CONTAINS FILE NUMBER, FILE DATE, SECURED PARTY NAME AND ADDRESS.	
6. SPECIFICALLY REQUESTED FILE NUMBER(S)			
7. FORWARD TO: UNIFORM COMMERCIAL CODE DEPARTMENT OF LICENSING P.O. BOX 9660 OLYMPIA, WA 98504-8007		NOTE: Records of crop related liens and federal liens against the personal property of corporations and partnerships are now filed with the Department of Licensing. Searches of both state and county records should be made during the periods of transition. See Chapters 60.11, 60.13 and 60.68 RCW.	
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8. SIGNATURE OF REQUESTING PARTY		9. DATE	
FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/10/89) COPY 1 FILING OFFICER WASHINGTON UCC-11R			

UCC-11R REQUEST FOR CERTIFICATE OF INFORMATION

PLEASE TYPE FORM. IF AN ERROR IS MADE, CORRECT ALL COPIES

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2. REQUESTING PARTY (Name and address) <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		4. ADDITIONAL DEBTOR ADDRESS(ES) (You may request additional addresses by city or county. All addresses may be requested by checking the ALL box.) <input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input checked="" type="checkbox"/> ALL
5. PLEASE INDICATE BOTH THE TYPE OF SEARCH DESIRED AND THE TYPE OF INFORMATION REQUESTED:		

TYPE OF SEARCH DESIRED: Check one box only.

- All current UCC filings and liens for the debtor named above, at the address(es) shown in box(es) 3 and/or 4.
 Any current UCC filings and liens from _____ to _____
 Federal tax liens only - partnership and corporation.
 Specific filing numbers listed below in box 6.

TYPE OF INFORMATION REQUESTED: Check one box only.

- Certificate of Information * \$ 7.00
 Certificate of Information * and true and exact copies. \$12.00

*CERTIFICATE OF INFORMATION CONTAINS FILE NUMBER, FILE DATE, SECURED PARTY NAME AND ADDRESS.

6. SPECIFICALLY REQUESTED FILE NUMBER(S)

7. FORWARD TO: UNIFORM COMMERCIAL CODE
DEPARTMENT OF LICENSING
P.O. BOX 9660
OLYMPIA, WA 98504-8007

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8. SIGNATURE OF REQUESTING PARTY**9. DATE**

FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/10/89)

COPY 2 FILING OFFICER

WASHINGTON UCC 11R

UCC-11R REQUEST FOR CERTIFICATE OF INFORMATION

PLEASE TYPE FORM. IF AN ERROR IS MADE, CORRECT ALL COPIES

1. OFFICE USE ONLY-DO NOT WRITE IN THIS BOX**3. DEBTOR NAME (list one debtor per request)**

| PERSONAL (first, first, middle name and address) SSN: _____

| BUSINESS (legal business name and address) FEIN: _____

2. REQUESTING PARTY (Name and address)**4. ADDITIONAL DEBTOR ADDRESS(ES) (You may request additional addresses by city or county. All addresses may be requested by checking the ALL box.)**

CITY

COUNTY

ALL **5. PLEASE INDICATE BOTH THE TYPE OF SEARCH DESIRED AND THE TYPE OF INFORMATION REQUESTED:****TYPE OF SEARCH DESIRED: Check one box only.**

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FORM APPROVED FOR USE IN THE STATE OF WASHINGTON (R/10/89)

COPY 3-FILE COPY REQUESTING PARTY

WASHINGTON UCC-11R

AMENDATORY SECTION (Amending Order BLS 130, filed 3/1/89)

WAC 308-400-050 OFFICIAL APPROVAL OF STANDARD FORMS. ((A supplier of standard forms who wishes to print on such forms a legend indicating that they have been officially approved as standard forms by the department of licensing shall submit two sets of reproducible proof copies of each such form to the department. The copies must demonstrate to the satisfaction of the department that the approved form in final printing will conform to content, format, size, and construction of the forms set out in WAC 308-400-040, 308-400-042, 308-400-046, 308-400-047, and 308-400-048. If the department is so satisfied, it shall notify such supplier in writing. No person shall print such a legend on any form for use under Article 62A.9 RCW or chapter 60.11 or 60.13 RCW, nor shall any person in any manner represent that there has been such approval, without first applying for such approval and receiving such notice from the department. A form which has not been approved by the department shall be considered a nonstandard form.)) Only forms which have been approved in writing by the department will be considered standard forms.

(1) Forms submitted for approval must demonstrate to the satisfaction of the department that each page of the forms in final printing will conform to the size and construction and other form specific department specifications of the forms set out in WAC 308-400-040, 308-400-046, 308-400-047, and 308-400-048. The department will not give approval for the production of any forms until it is satisfied as to the quality and content of the forms. Forms which have not been approved by the department shall be considered nonstandard forms and shall command the nonstandard filing fee.

(2) A supplier who wishes to produce standard forms for purchase by the public shall submit two sets of camera ready proofs to the department for approval. In lieu of submitting camera ready proofs for approval, a supplier may purchase camera ready proofs from the department at a cost of one dollar and fifty cents per page.

(3) A supplier who has not received official approval in writing from the department shall not print on any form a legend indicating that the forms are officially approved as standard forms.

AMENDATORY SECTION (Amending Order BLS 130, filed 3/1/89)

WAC 308-400-052 STANDARD FORM. (1) Beginning January 1, 1990, the only forms which will be considered standard forms for the purpose of assessing standard filing fees are those set out in WAC 308-400-040, 308-400-042, 308-400-046, and 308-400-047. All other forms will be considered nonstandard forms to which the nonstandard filing fees apply.

(2) Beginning January 1, 1990, the only forms which will be considered the standard form for requests for certificates of information shall be those set out as WAC 308-400-048.

(3) A standard form which includes attachments becomes a nonstandard filing and will be assessed the non-standard filing fee.

((4) Between the effective date of this amendment and December 31, 1989, forms previously approved by the department of licensing under WAC 308-400-040, 308-400-042, 308-400-046, 308-400-047, and 308-400-048 will be considered standard forms for the purpose of assessing standard fees.))

AMENDATORY SECTION (Amending Order BLS 130, filed 3/1/89)

WAC 308-400-095 FEES. The following fees for filing information with, and for obtaining information from, filing officers are adopted by the department of licensing:

(1) For filing, indexing, and furnishing data pursuant to a security interest created by a deed of trust or mortgage under provisions of RCW 62A.9-302, the fee shall be seven dollars.

(2) For filing and indexing an original financing statement or a continuation statement pursuant to RCW 62A.9-403, and for stamping a copy furnished by the secured party showing the date and place of filing, the fee shall be ((four)) seven dollars if the statement is in the standard form prescribed by the department of licensing, but if the form of the statement does not conform to the standards prescribed by the department, or if attached pages are added, the fee shall be ((seven)) fourteen dollars.

(3) For filing, indexing, and furnishing filing data for a financing statement indicating an assignment or a separate statement of assignment, under provisions of RCW 62A.9-405, on a form conforming to standards prescribed by the department of licensing shall be ((four)) seven dollars, but if the form of the financing statement or separate statement of assignment does not conform to the standards prescribed by the department, or if attached pages are added, the fee shall be ((seven)) fourteen dollars.

(4) For filing and noting a statement of release pursuant to RCW 62A.9-406 on a form conforming to standards prescribed by the department of licensing, the fee shall be ((four)) seven dollars, but if the form of the statement does not conform to the standards prescribed by the department, or if attached pages are added, the fee shall be ((seven)) fourteen dollars.

(5) For a certificate of information pursuant to RCW 62A.9-407, the fee shall be ((four)) seven dollars. For a certificate of information pursuant to RCW 62A.9-407 and for a copy of any filed financing statements or statements of assignment the fee shall be ((eight)) twelve dollars for each particular debtor's statements requested.

AMENDATORY SECTION (Amending Order BLS 130, filed 3/1/89)

WAC 308-400-100 FEES, FORMS AND PROCEDURES—FILING PROCESSOR AND PREPARER LIENS FOR AGRICULTURAL ((PRODUCTS)),

DAIRY, OR COMMERCIAL FISH PRODUCTS. The filing forms, fees and procedures for filing with, and obtaining information from, filing officers, pertaining to processor and preparer liens for agricultural ((products)), dairy, or commercial fish products pursuant to chapter 60.13 RCW, shall correspond to the forms, fees and procedures prescribed by the department of licensing pursuant to chapter 62A.9 RCW, for filing statements or information with, and obtaining information from, filing officers.

WSR 89-24-023
PERMANENT RULES
WASHINGTON STATE PATROL

[Filed November 30, 1989, 9:46 a.m.]

Date of Adoption: November 30, 1989.

Purpose: Adopt chapter 204-82A WAC, which establishes limitations on placement of materials and/or items on or near motor vehicle windows used for driving visibility.

Citation of Existing Rules Affected by this Order:
Repealing chapter 204-82 WAC.

Statutory Authority for Adoption: RCW 47.37.005 [46.37.005].

Pursuant to notice filed as WSR 89-21-006 on October 6, 1989, and WSR 89-21-043 on October 13, 1989.

Effective Date of Rule: Thirty-one days after filing.

November 30, 1989
 George B. Tellevik
 Chief

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 204-82-010 AUTHORITY.
 WAC 204-82-020 PURPOSE.
 WAC 204-82-030 SCOPE.
 WAC 204-82-040 DEFINITIONS.
 WAC 204-82-050 GLAZING LOCATIONS
 AND RESTRICTIONS.
 WAC 204-82-060 CERTIFICATION BY
 MANUFACTURERS.

Chapter 204-82A WAC
MOTOR VEHICLE SUNSCREENING DEVICES

WAC

204-82A-010	Authority.
204-82A-020	Purpose.
204-82A-030	Scope.
204-82A-040	Definitions.
204-82A-050	Maximum levels and other restrictions.
204-82A-060	Exceptions.

NEW SECTION

WAC 204-82A-010 AUTHORITY. This chapter is promulgated pursuant to RCW 46.37.005.

NEW SECTION

WAC 204-82A-020 PURPOSE. The purpose of this rule is to establish limitations on the use of materials and devices that are applied to motor vehicle windows in a manner that reduces or interferes with the operator's vision. Such devices may be designed to reduce the effects of the sun, for decoration or amusement purposes or a combination, and are applied or installed on vehicles after initial sale. This rule does not apply to safety glazing material that is manufactured and installed in accordance with Federal Motor Vehicle Safety Standards (FMVSS 205 and 128) and American National Standards Institute (ANSI Z26.1.1977) nor tinting material applied to safety glazing after initial sale of the vehicle: PROVIDED, That such material does not exceed the limitations established in RCW 46.37.430.

NEW SECTION

WAC 204-82A-030 SCOPE. This regulation is applicable to passenger cars, multipurpose passenger vehicles, trucks and buses. The specific vehicle window areas encompassed by this rule are:

- (1) Windshields;
- (2) Windows to the immediate right and left of the driver, including wind wings;
- (3) Rearmost windows;
- (4) Any other window used by the driver to safely operate the vehicle.

The provisions of this rule do not permit or prohibit the use and placement of federal, state, or local certificates or decals on any window as are required or prohibited by applicable laws or regulations. Any such decal or certificate must, however, be of such size and placement so that the ability of the driver to safely operate the vehicle is not impaired.

NEW SECTION

WAC 204-82A-040 DEFINITIONS. (1) Sunscreening devices are those products and/or materials applied or installed on motor vehicle windows for the purpose of reducing adverse effects of the sun. Such devices include, but are not limited to, semipermanently installed roll-up style shades and louver materials as well as temporarily applied articles such as towels, sheets, and blankets.

(2) Recreational products are those toys, cartoon characters, stuffed animals, signs, and other vision-reducing articles and materials that may be applied to or suspended near motor vehicle windows for entertainment and/or amusement purposes.

NEW SECTION

WAC 204-82A-050 MAXIMUM LEVELS AND OTHER RESTRICTIONS. (1) Sunscreening devices and/or recreational products may not be applied to or suspended between the driver and the windshield or the windows to the immediate right and left of the driver.

(2) Sunscreening devices may be applied to other windows provided that such devices reduce the driver's

area of vision uniformly and by no more than fifty percent, as measured on a horizontal plane.

(3) If sunscreening devices are applied to the rear window, the vehicle must be equipped with outside rear view mirrors on both the left and the right.

(4) Recreational products may be applied to windows, other than those referred to in subsection (1) of this section, only if they do not interfere, by their size or position, with the driver's ability to see other vehicles, persons, and objects.

NEW SECTION

WAC 204-82A-060 EXCEPTIONS. Due to the nature of use, function and operation of such vehicles, the following are exempted from the provisions of WAC 204-82A-050(2):

- (1) Hearses.
- (2) Ambulances.
- (3) Limousines and passenger buses used to transport persons for compensation.

Such vehicles shall have mirrors on both the right and left to provide vision at least two hundred feet to the rear. This section does not limit liability of the operators and/or owners of such vehicles involved in accidents resulting from reduced visibility.

WSR 89-24-024
EMERGENCY RULES
PUBLIC EMPLOYMENT
RELATIONS COMMISSION
[Filed November 30, 1989, 10:56 a.m.]

Date of Adoption: November 15, 1989.

Purpose: Chapter 391-08 WAC is adopted to set forth certain general rules of practice and procedure applicable to all types of cases processed by the commission.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: RCW 41.58.050, 28B.52.080, 41.56.090 and 41.59.110.

Other Authority: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Rules adopted pursuant to chapter 34.05 RCW to harmonize with (where possible) or supplant (where necessary as described below) chapter 10-08 WAC as amended effective July 15, 1989. Readoption on an emergency basis is required because the chairman of the commission has resigned and a successor has not been appointed.

WAC 391-08-001 Application and scope of chapter 391-08 WAC.

Purpose: Introduces chapter 391-08 WAC as "procedural." Makes cross-references to other rules.

Statute: Chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW (hereinafter: "substantive statutes"), generally.

Summary: Refers user to other rules, as follows: Chapter 10-08 WAC for conduct of "contested cases"; chapter 391-25 WAC for representation cases; chapter 391-35 WAC for unit clarification cases; chapter 391-45 WAC for unfair labor practice cases; chapter 391-55 WAC for impasse resolution cases; chapter 391-65 WAC for grievance arbitration cases; and chapter 391-95 WAC for union security cases. Provides that special rules prevail over general rules.

Reasons: Chapter 34.05 RCW (APA) and RCW 34-05.250 permits agencies to adopt rules different from model rules by stating reasons for variance. WAC 10-08-001 is similar.

Explanation: Amendment of existing rule with more detailed cross-references identifying the areas where PERC does things differently than chapter 10-08 WAC.

WAC 391-08-003 Policy—Construction—Waiver.

Purpose: Promotes labor peace.

Statute: RCW 41.58.005(1).

Summary: Provides for liberal construction of rules and waiver of rules where there is no prejudice to parties.

Reasons: RCW 34.05.060 encourages informal settlements. RCW 34.05.050 permits waivers by parties. WAC 10-08-230 "encourages" agencies to explore early, informal settlements, but declares how settlements will be embodied in writing and implemented, including burden on agency to provide written description of the resolution to the persons involved.

Explanation: Readoption of existing rule is in harmony with the purpose of WAC 10-08-230, but is more suited to labor-management practice, where parties are accustomed to writing out and signing their own settlement agreements.

WAC 391-08-007 Definitions.

Purpose: Defines certain terms of art.

Statute: Substantive statutes, generally.

Summary: Defines "agency," "commission," "executive director," "labor dispute" and "presiding officer."

Reasons: Chapter 34.05 RCW does not define roles within agency. Model rules silent and also repeals former definition of "presiding officer."

Explanation: Readoption of existing rule is substantive as to definition of "labor dispute" patterned after federal precedent; efficient as to definition of "presiding officer." PERC actually uses working titles of "hearing officer" and "examiner" in APA cases, so "presiding officer" is a handy catch-all. (PERC uses "mediator" and "arbitrator" in non-APA cases); and efficient as to other terms, which permit greater precision in other rules.

WAC 391-08-010 Appearance and practice before agency—Who may appear.

Purpose: Limits practice before PERC.

Statute: Substantive statutes, generally.

Summary: Permits Washington attorneys, union agents and employer agents to practice before PERC,

without limitation. Permits out-of-state attorneys to practice before PERC on reciprocity basis.

Reasons: RCW 34.05.428 provides:

(1) A party to an adjudicative proceeding may participate personally or, if the party is a corporation or other artificial person, by a duly authorized representative.

(2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, if permitted by provision of law, other representative.

Chapter 10-08 WAC is silent with repeal of WAC 10-08-020. PERC finds it advisable to give meaning to the statutory term "duly authorized representative" in the context of labor-management relations and a long history of practice by nonattorneys in this field.

Explanation: Readoption of the existing rule is consistent with the legislative history of the APA. The problem of excluding union business agents and management consultants from practice before PERC was pointed out to the legislature during hearings on the APA, and it softened the original language of the bill. While it might be argued that neither the APA nor PERC's rule is completely consistent with the supreme court's admission to practice (APR) rule 8(b) (which does not require "reciprocity" for out-of-state attorneys, but requires them to "associate" for the case with an in-state attorney), the supreme court ducked the question of "unauthorized practice of law" in a recent Board of Industrial Insurance Appeals case. PERC sees a number of Oregon attorneys in the Vancouver area, and sees the Aitchison firm state-wide. Out-of-state attorneys might qualify under the "duly authorized" agents language of RCW 34.05.428(1). Readoption of the PERC rule will avoid further clouding of the issue at this time.

WAC 391-08-020 Appearance and practice before agency—Standards of conduct.

Purpose: Provide for exclusion from practice before PERC.

Statute: Substantive statutes, generally.

Summary: Permits presiding officer to exclude representative for misconduct at hearing. Permits PERC to exclude persons from practice, upon notice and hearing, for misconduct of an aggravated character.

Reasons: RCW 34.05.428 leaves open possibility of nonattorney practitioners before administrative agencies. Model rules silent with repeal of WAC 10-08-020.

Explanation: Readoption of existing rule as deterrent to misconduct. Permits agency sanctions, particularly as to nonattorney practitioners who are not regulated by the Washington State Bar Association.

WAC 391-08-030 Appearance and practice before agency—Appearance by former employee of agency or former member of attorney general's staff.

Purpose: Limits practice by former PERC and AG staff.

Statute: Substantive statutes, generally.

Summary: Former PERC staff and AG staff are barred from representing parties in any case that was

pending before PERC while the person was associated with the agency.

Reasons: Chapter 34.05 RCW silent. Model rules silent with repeal of WAC 10-08-020.

Explanation: Readoption of existing rule protects impartiality and PERC's appearance of fairness. PERC's "mediation" role is particularly sensitive and vulnerable to damage if a former insider were to show up representing a party on a case where insider knowledge could have been gained.

WAC 391-08-040 Appearance and practice before agency—Former employee as witness.

Purpose: Limit testimony by former PERC and AG staff.

Statute: Substantive statutes, generally.

Summary: Former PERC staff and AG staff barred from testifying for any party in any case which was pending before PERC while the person was associated with the agency.

Reasons: APA silent. WAC 10-08-140(4) limits the exclusion to "expert witness" testimony, and only where the person was actually involved with the particular case while associated with the agency.

Explanation: Readoption of existing rule protects impartiality and PERC's appearance of fairness. PERC's "mediation" role is particularly sensitive and vulnerable to damage if a former insider were to show up testifying on behalf of a party on a case where insider knowledge could have been gained.

WAC 391-08-100 Service of process—Computation of time.

Purpose: Provide standards for computing time periods.

Statute: Substantive statutes, generally.

Summary: Time periods computed by calendar days to end on business day, except Saturdays, Sundays and Holidays excluded for periods of less than seven days.

Reasons: APA silent. WAC 10-08-080 is identical.

Explanation: Readoption of existing rule maintains consistency. PERC needs to have some rule for PERC cases that are not governed by the APA. The standards should continue to be identical for all types of cases.

WAC 391-08-110 Service of process—By whom served.

Purpose: Repeal redundant requirement for service of papers.

Statute: Substantive statutes, generally.

Summary: PERC to serve papers it issues. All other papers to be served by originating party.

Reasons: RCW 34.05.437(3) requires originating party to serve papers unless agency rules provide otherwise. WAC 10-08-110(1) requires originating party to serve papers filed with presiding officer.

Explanation: Repeal of existing rule maintains consistency. This rule could perhaps have been repealed when chapter 10-08 WAC was first adopted. WAC 391-08-120 will adequately cover the situation.

WAC 391-08-120 Service of process—Filing and service of papers.

Purpose: Regulates filing and service of papers.

Statute: Substantive statutes, generally.

Summary: Filing means actual receipt by agency. Originating party to serve other parties by mail, etc., including fax. Documents intended for commission or executive director to be filed only in Olympia office.

Reasons: RCW 34.05.010(6) defines "filing" as actual receipt by agency at place designated by agency. RCW 34.05.437(3) requires originating party to serve papers (by deposit in mail, etc., or by fax if permitted by agency rule) unless agency rules provide otherwise. WAC 10-08-110 permits filing of any papers for agency at any office of the agency and permits service by fax.

Explanation: Amendment of existing rule, to avoid operational problems. PERC's rule was patterned after the original WAC 10-08-110, but was amended in 1988 to require filings for the commission or executive director at Olympia office. PERC has experienced problems with attempts to file time-critical papers at PERC's Yakima and Spokane offices at times when nobody was present to verify the date and time of filing. WAC 391-08-120 (4)(b) should also say that papers to be filed with a presiding officer may be filed at: "The office of the presiding officer or the Olympia office." Amendment to include service by "fax" is also proposed.

WAC 391-08-160 Service of process—Opportunity for hearing.

Purpose: Repeal redundant requirement for public hearings in contested cases.

Statute: RCW 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: PERC contested case hearings open to the public. Parties may appear and participate.

Reasons: RCW 34.05.449(5) provides for hearings in adjudicative proceedings to be open to the public. Model rules are silent following repeal of portions of WAC 10-08-190 which required hearings to be public.

Explanation: Repeal of existing rule maintains consistency. The subject is adequately covered by statute.

WAC 391-08-180 Service of process—Continuances.

Purpose: Regulates requests for continuances.

Statute: Substantive statutes, generally.

Summary: Parties may move for continuance, with notice to other parties, for good cause. Presiding officer may grant.

Reason: RCW 34.05.449(1) empowers presiding officer to regulate course of proceedings. WAC 10-08-090 makes explicit requirement for party seeking continuance to do leg-work with other parties in advance of making request to agency.

Explanation: Amendment of PERC rule to parallel model rule will maintain consistency. The same standards would be made effective for PERC cases not governed by the APA or the model rules. PERC traditionally asked parties to do the leg-work.

WAC 391-08-200 Definition of issues—Before hearing.

Purpose: Repeal redundant admonition on parties to clarify issues before hearing.

Statute: Substantive statutes, generally.

Summary: Toothless language dates back to chapter 1-08 WAC model rules promulgated by Code Reviser.

Reason: RCW 34.05.431 authorizes agencies to hold prehearing conference to simplify issues. WAC 10-08-035 suggests that application should state issue to be adjudicated. WAC 10-08-130 authorizes agency to hold prehearing conference to simplify issues.

Explanation: Repeal of existing rule maintains consistency. This concept is now adequately covered in the APA and model rules.

WAC 391-08-210 Definition of issues—Prehearing conference.

Purpose: Repeal redundant rule on prehearing conferences.

Statute: RCW 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: PERC adopted a rule duplicating WAC 10-08-130, because PERC conducts representation case prehearing conferences prior to the issuance of a notice of hearing.

Reason: RCW 34.05.431(1) requires agency to adopt rules specifying conditions and manner in which pre-hearing conferences are to be held. WAC 10-08-130 amended only to use "adjudicative proceedings" terminology.

Explanation: Repeal of existing rule maintains consistency. The model rules now cover the period prior to issuance of a notice of hearing, so PERC no longer needs to have its own rule. (PERC needs to adopt "when and how" rules for prehearing conferences in chapters 391-25, 391-35, 391-45 and 391-95 WAC.)

WAC 391-08-230 Summary judgment.

Purpose: Regulates issuance of summary judgments.

Statute: RCW 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: PERC may decide case by summary judgment if pleadings show there is no issue of fact.

Reason: Summary judgment procedures formerly set forth in RCW 34.04.090(3) have disappeared from the new APA, but RCW 34.05.416 permits the agency to decide that no adjudicative proceeding will be conducted. The model rules are silent.

Explanation: Readoption of the existing rule will enhance efficiency. PERC adopted its rule after experience with going to hearing just to entertain an obvious motion for dismissal in cases where no disputed issues had been identified. PERC's "preliminary ruling" procedures for unfair labor practice and union security cases are consistent with RCW 34.05.416, and avoid these situations.

WAC 391-08-300 Subpoenas—Discovery—Form.

Purpose: Subpoena powers limited to hearings; "discovery" not permitted.

Statute: RCW 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: Subpoenas to identify agency, title of proceeding and case number, and hearing where returnable. Prehearing discovery is not allowed.

Reason: APA is silent as to form of subpoena. RCW 34.05.446(2) permits agency to determine, by rule, whether discovery is to be available in adjudicative proceedings and, if so, which forms of discovery may be used. Except as otherwise provided by agency rules, discovery is up to the presiding officer. WAC 10-08-120 provides for subpoenas to, inter alia, identify agency, title of proceeding and case number. Model rules silent on discovery following repeal of WAC 10-08-020, which left authority in "discovery" area to the agencies.

Explanation: Amendment, with amendment of title, will fulfill APA requirement to state what "discovery" will be allowed. Consistent with National Labor Relations Board practice, PERC has not permitted "discovery." Discovery rules found in chapter 1-08 WAC were thus omitted from chapter 391-08 WAC, and silence continued to suffice while chapter 10-08 WAC left the matter to the agency. The new APA requires the agency to adopt a rule. The form of subpoena is covered by WAC 10-08-120, but this rule can be converted to limit the use of subpoena.

WAC 391-08-310 Subpoenas—Issuance to parties.

Purpose: Limitation on use of subpoena power to call PERC staff member as witness in proceeding before PERC.

Statute: RCW 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: Subpoena may be issued ex parte. Attorneys may sign subpoena on their license. No subpoena issued or given effect to call PERC staff member as witness.

Reason: RCW 34.05.446(1) provides for issuance of subpoena by agency or attorney, with party requesting issuance of subpoena paying witness fees, etc., per RCW 34.05.446(7). WAC 10-08-120 requires that subpoena identify requesting party, agency and case; regulates service; regulates quashing; but repeals prohibition on subpoena of PERC staff member as witness in before PERC.

Explanation: Readoption of existing rule is needed to protect PERC's impartiality. PERC's "mediation" role is particularly sensitive and vulnerable to damage if an insider shows up testifying for a party. The exclusion of PERC staff from subpoena was adopted by the Chief Administrative Law Judge in the original chapter 10-08 WAC rules, because the sensitive nature of PERC's "mediation" function was recognized and there was no other way to make such a limitation effective. The repealer by the Chief Administrative Law Judge recognizes that PERC has the freedom to adopt its own rule.

The commission has already readopted the existing rule on an emergency basis so that this area will not be left to chance.

WAC 391-08-315 Interpreters.

Purpose: Provides for use and compensation of interpreters in "adjudicative proceedings" covered by the APA.

Statute: Chapter 2.42 RCW and RCW 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: Adopts model rule with modification to delete agency responsibility for payment of interpreters beyond that required by chapter 2.42 RCW.

Reason: RCW 2.42.040 makes a distinction between "criminal" and related proceedings (where the governmental body initiating the proceedings is responsible for the fees and expenses of the interpreter) and "other legal proceedings" (where the fees and expenses of the interpreter are borne by the impaired person unless indigent, and only then by the agency conducting the proceeding). RCW 2.42.170 recites that an interpreter is entitled to fees and expenses, without assigning responsibility for their payment. WAC 10-08-150(17) makes the agency responsible for the fees and expenses of all interpreters.

Explanation: Adoption of model rule in modified form will limit the circumstances under which the agency must pay for the fees and expenses of interpreters. AGO 1989 No. 10 infers that the distinction between "criminal" and "other legal proceedings" remains viable, and a modified rule is proposed on advice from the Office of the Attorney General that the model rule is over-broad as to the financial obligations of the agency. Additionally, the legislature amended chapter 2.42 RCW in 1989 to create a qualifications process for interpreters through the administrator for the courts, which may turn out to be different than as detailed in the model rules.

WAC 391-08-500 Declaratory rulings authorized.**WAC 391-08-510 Declaratory rulings—Petition.**

Purpose: Repeal of redundant rules on declaratory rulings.

Statute: Substantive statutes, generally.

Summary: PERC rules now provide for form, filing, service and disposition of declaratory ruling petitions.

Reason: RCW 34.05.240 permits petitions for declaratory orders and sets forth detailed procedures. Model rules set forth detailed procedures for issuing declaratory orders at WAC 10-08-250, 10-08-251 and 10-08-252.

Explanation: Repeal of existing rule to maintain consistency. This subject is now adequately covered by the APA and by the model rules.

WAC 391-08-600 Agency decisions—Form and content.

Purpose: Repeal of redundant PERC rule.

Statute: RCW 35.05.461 [34.05.461], 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: Specifies form and content of decisions, parallel to provisions of original WAC 10-08-210.

Reason: RCW 35.05.461 [34.05.461] controls contents of orders. WAC 10-08-210 is now expanded to cover "initial or final" orders.

Explanation: Repeal of existing rule to maintain consistency. PERC formerly needed to have such a rule to regulate the form and content of orders issued by the commission on petitions for review of initial orders. This subject is now adequately covered by the APA and the model rules.

WAC 391-08-610 Agency decisions—Service.

Purpose: Regulates service of initial and final decisions in "adjudicative proceedings" covered by the APA.

Statute: RCW 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: Calls for service of decisions on each party, as well as on their attorneys.

Reason: RCW 34.04.120 requirement for service on party as well as upon attorney seems to have disappeared in new APA. RCW 34.05.461(9) says simply orders to be served "on each party." Model rules are silent.

Explanation: Readoption of existing rule to avoid problems. The requirement for service on the party, as well as its attorney, was adopted in 1975 (perhaps out of distrust of the attorneys to keep their clients informed?). PERC may want to continue the practice informally or by rule, regardless of APA silence.

WAC 391-08-630 Agency ((decisions))—Structure—Substitution for executive director.

Purpose: Specify agency structure and delegation of authority.

Statute: RCW 41.58.010 and 41.58.015.

Summary: Describes commission as impartial (all "public members") body; describes executive director as full-time agency head; provides for senior staff member not involved with case to act in place of executive director when he/she is disqualified or unavailable.

Reason: RCW 34.05.220 (1)(b) requires each agency to adopt rules stating its organization and general course and method of operations. Chapter 10-08 WAC is silent.

Explanation: Amendment, with amendment of title, to comply with requirement of new APA. Delegation of authority beyond executive director is operational necessity in some cases.

WAC 391-08-800 Agency records—Public access.

Purpose: Describe agency records available to public.

Statute: Chapter 42.17 RCW, and substantive statutes generally.

Summary: PERC to maintain docket, calendar and case files.

Reason: Effective July 1, 1990, RCW 42.17.260 will require agency to make records and index available to public. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule pending further study is indicated. The existing rule dates back to the chapter 1-08 WAC model rules promulgated by the Code Reviser. The public disclosure law, chapter 42.17 RCW imposes its own access requirements. PERC has

relied upon its computer system and upon commercially published indexes of its decisions. The "APA clean-up bill" permits agencies to satisfy their "indexing" obligations by making available a commercially published index used by the agency. PERC may want to name the two local publishers in its rules, to divert inquiries in their direction.

WAC 391-08-810 Agency records—Confidentiality.

Purpose: Makes specific records exempt from public disclosure.

Statute: RCW 28B.52.060, 41.56.070, 41.56.100, 41.56.440, 41.58.020, 41.59.120 and 49.08.010.

Summary: Excludes "showing of interest evidence" and "mediation" records from public disclosure.

Reason: RCW 34.05.010 (3)(b) excludes showing of interest determinations and mediation from "agency action" subject to the APA. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule protects impartiality of PERC and substantive rights of parties. Court of Appeals decision affirms exclusion of "showing of interest" evidence from disclosure. These matters were excluded from the coverage of the APA in recognition of their sensitive and vulnerable nature if subjected to disclosure.

WAC 391-08-820 Agency offices.

Purpose: Specifies addresses of PERC offices.

Statute: Substantive statutes, generally.

Summary: Specifies PERC's principal office address in Olympia and its branch offices in Yakima and Spokane.

Reason: RCW 34.05.220 (1)(b) requires each agency to adopt rules stating how the public may obtain information and make submissions or requests. Chapter 10-08 WAC is silent.

Explanation: Readoption of the existing rule with corrected address (mailstop) information and telephone numbers will comply with the new APA.

This rule formerly contained information on PERC's branch offices. A conscious decision was made to delete that information, because PERC's branch offices in Spokane and Yakima are one-person stations that [are] not staffed on a full-time basis during normal office hours of state agencies, and so are not equipped to receive filings of time-critical documents. The "filing" problem will be taken care of in WAC 391-08-120.

WAC 391-08-900 Petitions for rule making—Who may petition.

WAC 391-08-910 Petitions for rule making—Form.

WAC 391-08-920 Petitions for rule making—Agency must consider.

WAC 391-08-930 Petitions for rule making—Notice of disposition.

Purpose: Repeal redundant rules on petitions for rule making.

Statute: Chapter 34.05 RCW and substantive statutes, generally.

Summary: PERC rules now set forth details for form, filing and disposition of requests for rule making.

Reason: RCW 34.05.330 permits any person to petition an agency for rule making. Agency may prescribe

form and procedure. WAC 10-08-260 and 10-08-261 specify form and content of petitions for rule making.

Explanation: Repeal of existing rule to maintain consistency. Subject is now covered by APA and model rules.

Effective Date of Rule: Immediately.

November 29, 1989
Marvin L. Schurke
Executive Director

AMENDATORY SECTION (Amending Order 83-01, filed 12/1/83, effective 1/1/84)

WAC 391-08-001 APPLICATION AND SCOPE OF CHAPTER 391-08 WAC. Chapter 391-08 WAC has been added to the Washington Administrative Code by the public employment relations commission pursuant to the authority of section 12, chapter 288, Laws of 1975 1st ex. sess. (RCW 41.59.110); sections 14 and 20, chapter 296, Laws of 1975 1st ex. sess. (RCW 28B.52-.080 and 41.56.040); and section 3, chapter 5, Laws of 1975 2nd ex. sess. (RCW 41.58.050), to promulgate comprehensive and uniform rules for practice and procedure before the agency. The provisions of chapter 1-08 WAC shall not be applicable to proceedings before the agency. This chapter sets forth general rules applicable to all types of proceedings before the agency, and should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC which contains rules promulgated by the chief administrative law judge governing the conduct of ((contested cases)) adjudicative proceedings under chapters 391-25, 391-35, 391-45 and 391-95, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-25-070, 391-25-090, 391-35-050, 391-45-050, and 391-95-110;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-110, which is supplanted by WAC 391-08-120;

(d) WAC 10-08-120, to the extent that it is further limited by WAC 391-08-040 and 391-08-310;

(e) WAC 10-08-140, to the extent that it is further limited by WAC 391-08-040 and 391-08-310;

(f) WAC 10-08-150, which is supplanted by WAC 391-08-315;

(g) WAC 10-08-211, which is supplanted by WAC 391-25-390, 391-25-590, 391-35-210, 391-35-230, 391-45-350, 391-45-370, 391-95-270, and 391-95-280; and

(h) WAC 10-08-230, which is supplanted by WAC 391-25-150, 391-25-220, 391-25-230, 391-25-250, 391-25-270, 391-35-070, 391-35-140, 391-45-070, 391-45-090, 391-45-260, and 391-95-200.

(2) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

(3) Chapter 391-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing bargaining unit.

(4) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

(5) Chapter 391-55 WAC, which contains rules relating to the resolution of impasses occurring in collective bargaining.

(6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

(7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

In the event of a conflict between general rule in this chapter and a special rule in another chapter applicable to a particular proceeding, the special rule shall govern.

READOPTED SECTION (Readopting Order 77-1, filed 1/27/77)

WAC 391-08-003 POLICY—CONSTRUCTION—WAIVER. The policy of the state being primarily to promote peace in labor relations, these rules and all other rules adopted by the agency shall be liberally construed to effectuate the purposes and provisions of the statutes administered by the agency, and nothing in any rule shall be construed to prevent the commission and its authorized agents from using their best efforts to adjust any labor dispute. The commission and its authorized agents may waive any requirement of the rules unless a party shows that it would be prejudiced by such a waiver.

READOPTED SECTION (Readopting Order 83-01, filed 12/1/83, effective 1/1/84)

WAC 391-08-007 DEFINITIONS. As used in Title 391 WAC:

(1) "Agency" means the public employment relations commission, its officers and agents;

(2) "Commission" means the public employment relations commission;

(3) "Executive director" means the officer of that title appointed by the commission pursuant to RCW 41.58.015(2);

(4) "Labor dispute" means any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee.

(5) "Presiding officer" means an agency official(s), examiner, hearing officer or other person authorized to act on behalf of the agency.

READOPTED SECTION (Readopting Order 77-1, filed 1/27/77)

WAC 391-08-010 APPEARANCE AND PRACTICE BEFORE AGENCY—WHO MAY APPEAR.

No person may appear in a representative capacity before the agency or its designated hearing officer other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington;

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law;

(3) A bona fide officer, employee or other authorized representative of: (a) Any employer subject to the jurisdiction of the agency, or (b) any labor or employee organization.

READOPTED SECTION (Readopting Order 77-1, filed 1/27/77)

WAC 391-08-020 APPEARANCE AND PRACTICE BEFORE AGENCY—STANDARDS OF CONDUCT. Misconduct at any hearing conducted by the commission or a member of its staff shall be ground for summary exclusion from the hearing. Misconduct of an aggravated character, when engaged in by an attorney or other person acting in a representative capacity pursuant to WAC 391-08-010, shall be ground for suspension or disbarment by the commission after due notice and hearing.

READOPTED SECTION (Readopting Order 77-1, filed 1/27/77)

WAC 391-08-030 APPEARANCE AND PRACTICE BEFORE AGENCY—APPEARANCE BY FORMER EMPLOYEE OF AGENCY OR FORMER MEMBER OF ATTORNEY GENERAL'S STAFF. No former member of the commission, former employee of the agency or former member of the attorney general's staff shall, at any time after severing his employment with the agency or with the attorney general, appear in a representative capacity on behalf of any party in connection with any case or proceeding which was pending before the agency during the time of his employment with the agency.

READOPTED SECTION (Readopting Order 77-1, filed 1/27/77)

WAC 391-08-040 APPEARANCE AND PRACTICE BEFORE AGENCY—FORMER EMPLOYEE AS WITNESS. Except upon the express written consent of the commission, no former member of the commission, former employee of the agency or former member of the attorney general's staff shall, at any time after severing his employment with the agency or with the attorney general, appear as a witness on behalf of any party in connection with any case or proceeding which was pending before the agency during the time of his employment with the agency.

READOPTED SECTION (Readopting Order 83-01, filed 12/1/83, effective 1/1/84)

WAC 391-08-100 SERVICE OF PROCESS—COMPUTATION OF TIME. In computing any period of time prescribed or allowed by any applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

AMENDATORY SECTION (Amending Order 88-01, filed 5/31/88)

WAC 391-08-120 SERVICE OF PROCESS—FILING AND SERVICE OF PAPERS. (1) All notices, pleadings, and other papers filed with the agency or the presiding officer shall be served upon all counsel and representatives of record and upon parties not represented by counsel or upon their agents designated by them or by law.

(2) Service shall be made personally or, unless otherwise provided by law, by first class, registered, or certified mail, ((or)) by telegraph; by electronic telefacsimile transmission and same-day mailing of copies; or by commercial parcel delivery company.

(3) Service by mail shall be regarded as completed upon deposit in the United States mail properly stamped and addressed((, and by telegraph)). Service by telegraph shall be regarded as completed when deposited with a telegraph company properly addressed and with charges prepaid. Service by electronic telefacsimile transmission shall be regarded as completed upon production by the telefacsimile device of confirmation of transmission. Service by commercial parcel delivery shall be regarded as completed upon delivery to the parcel delivery company with charges prepaid.

(4) Papers required to be filed with the agency or with the presiding officer shall be deemed filed upon actual receipt during office hours at:

(a) The Olympia office of the commission for any papers required to be filed with the commission, the executive director, or the agency generally; or

(b) ((Any)) The office of ((the agency or of)) the presiding officer or the Olympia office of the commission for any papers required to be filed with the presiding officer.

(5) Where proof of service is required by statute or rule, filing the papers with the presiding officer, together with ((either an acknowledgment of service or)) one of the following ((certificate)) shall constitute proof of service:

~~((I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy thereof in person to (names) or by mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent.~~

Dated at this ... day of, 19....
(signature))

(a) An acknowledgement of service.

(b) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all parties of record in the proceeding by delivering a copy thereof in person to (names).

(c) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all parties of record in the proceeding by:

(i) Mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent; or

(ii) Telegraphing a copy thereof, properly addressed with charges prepaid, to each party to the proceeding or to his or her attorney or authorized agent; or

(iii) Transmitting a copy thereof by electronic telefacsimile devide, and on the same day mailing a copy, to each party to the proceeding or his or her attorney or authorized agent; or

(iv) Depositing a copy thereof, properly addressed with charges prepaid, with a commercial parcel delivery company.

AMENDATORY SECTION (Amending Order 83-01, filed 12/1/83, effective 1/1/84)

WAC 391-08-180 SERVICE OF PROCESS—CONTINUANCES. (1) Postponements, continuances, extensions of time, and adjournments may be ordered by the presiding officer on his or her own motion or may be granted on timely request of any party, with notice to all other parties, showing good and sufficient cause therefor.

(2) A request for a continuance made prior to the hearing date may be oral or in writing and shall state that the party seeking the continuance has notified all other parties of the request and that either all other parties agree to the continuance or that all parties do not agree to the continuance. If all parties do not agree to the continuance, the presiding officer shall promptly schedule a prehearing conference to receive argument and to rule on the request.

READOPTED SECTION (Readopting Order 81-01, filed 1/6/81)

WAC 391-08-230 SUMMARY JUDGMENT. A summary judgment may be issued if the pleadings and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that one of the parties is entitled to a judgment as a matter of law. Motions for summary judgment made in advance of a hearing shall be filed with the agency and served on all other parties to the proceeding.

AMENDATORY SECTION (Amending Order 83-01, filed 12/1/83, effective 1/1/84)

WAC 391-08-300 SUBPOENAS—DISCOVERY—FORM. (1) Every subpoena shall state the name of the agency as: State of Washington, public employment relations commission; and shall state the title of the proceeding and case number.

(2) The power of subpoena shall be limited to compelling the testimony of witnesses and production of documents or other tangible evidence at hearings conducted by the agency.

(3) Pursuant to the authority delegated to the agency by RCW 34.05.446(2), discovery shall not be available in proceedings before the agency.

READOPTED SECTION (Readopting Order 83-01, filed 12/1/83, effective 1/1/84)

WAC 391-08-310 SUBPOENAS—ISSUANCE TO PARTIES. Subpoenas requiring the attendance and testimony of witnesses or the production of evidence shall be issued ex parte to any party to a case: PROVIDED, HOWEVER, That no subpoena shall be issued or given effect to require the attendance and testimony of, or the production of evidence by, any member of the commission or any member of the agency staff in any proceeding before the agency. The commission or its hearing officer or examiner shall issue subpoenas upon the application of counsel or other representative authorized to practice before the agency, and may condition the issuance of subpoenas to parties not so represented upon a showing of general relevance and reasonable scope of the testimony or evidence sought. Attorneys may act under the authority conferred by RCW 34.04.105 (2)(a).

NEW SECTION

WAC 391-08-315 INTERPRETERS. (1) An "impaired person" is any person who is a hearing impaired person or a limited-English-speaking person.

(2) A "hearing impaired person" is a person who, because of a hearing impairment or speech defects, cannot readily understand or communicate in spoken language; and includes persons who are deaf, deaf and blind, or hard of hearing.

(3) A "limited-English-speaking person" is a person who, because of a non-English-speaking cultural background cannot readily speak or understand the English language.

(4) A "qualified interpreter" is a person who is qualified to act as interpreter under chapter 2.42 RCW as now or hereafter enacted.

(5) An "intermediary interpreter" is a person who is qualified to act under chapter 2.42 RCW as now or hereafter enacted.

(6) When an impaired person is a party to an adjudicative proceeding under chapter 391-25, 391-35, 391-45 or 391-95 WAC, the presiding officer shall, in the absence of a written waiver signed by the impaired person, require the appointment of a qualified interpreter to assist the impaired person throughout the proceedings.

The right to a qualified interpreter may not be waived except when:

(a) The impaired person requests a waiver through the use of a qualified interpreter;

(b) The representative, if any, of the impaired person consents; and

(c) The presiding officer determines that the waiver has been made knowingly, voluntarily, and intelligently.

(7) Waiver of a qualified interpreter shall not preclude the impaired person from claiming his or her right to a qualified interpreter at a later time during the proceedings.

(8) The presiding officer shall make a preliminary determination that an interpreter is able in the particular proceeding to interpret accurately all communication to and from the impaired person. This determination shall be based upon the testimony or stated needs of the impaired person, the interpreter's education, certifications, and experience in interpreting adjudicative proceedings, and the interpreter's understanding of the basic vocabulary and procedure involved in the proceeding, and the interpreter's impartiality. The parties or their representatives may question the interpreter as to his or her qualifications and impartiality.

(9) If at any time during the proceeding, in the opinion of the impaired person, the presiding officer or a qualified observer, the interpreter does not provide accurate and effective communication with the impaired person, the presiding officer shall require the appointment of another qualified interpreter.

(10) If the communication mode or language of a hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the presiding officer, who shall require the appointment of an intermediary interpreter to assist the qualified interpreter.

(11) The mode of interpretation shall be as permitted by chapter 2.42 RCW or WAC 10-08-150, as now or hereafter amended.

(12) A qualified interpreter shall not, without the written consent of the parties to the communication, be examined as to any communication the interpreter interprets under circumstances where the communication is privileged by law. A qualified interpreter shall not, without the written consent of the parties to the communication, be examined as to any information the interpreter obtains while interpreting pertaining to any proceeding then pending.

(13) The presiding officer shall explain to the impaired party that a written decision or order will be issued in English, and that the party may contact the interpreter for a translation of the decision. If the party has a right to review of the order or decision, the presiding officer shall orally inform him or her during the hearing of the right and the time limits to request review.

(14) At the hearing, the interpreter for a limited-English-speaking party shall provide to the presiding officer the interpreter's telephone number written in the primary language of the impaired party. A copy of such telephone number shall be attached to the decision or mailed to the impaired party. A copy of the decision or

order shall also be mailed to the interpreter for use in translation.

(15) In any proceeding involving a hearing impaired person, the presiding officer may order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use as the official transcript of that portion of the proceedings. Where simultaneous translation is used for interpreting statements of limited-English-speaking persons, the foreign language statements shall be recorded simultaneously with the English language statements by means of a separate tape recorder.

(16) A qualified interpreter appointed under this section is entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses.

(17) The costs of providing the interpreter shall be borne by the impaired party or by the party who calls the impaired person as a witness, unless the impaired party is indigent under the standards applied in criminal proceedings in the superior court for Thurston County and thus unable to pay for the interpreter, in which case the cost shall be borne as an administrative cost by the commission.

(18) The cost of providing the interpreter may be a taxable cost of any proceeding in which costs are taxed.

READOPTED SECTION (Readopting Order 83-01, filed 12/1/83, effective 1/1/84)

WAC 391-08-610 AGENCY DECISIONS—SERVICE. Every final order issued by the agency shall be served on each party or upon the agency designated by the party or by law to receive service of such papers; and a copy shall be furnished to any counsel or person appearing for a party in a representative capacity.

AMENDATORY SECTION (Amending Resolution No. 85-01, filed 9/16/85)

WAC 391-08-630 AGENCY ((DECISIONS)) STRUCTURE—SUBSTITUTION FOR EXECUTIVE DIRECTOR. (1) The public employment relations commission and its staff maintain an impartial role in all proceedings pending before the agency.

(2) The commission consists of three citizen members appointed by the governor with the advice and consent of the senate, pursuant to RCW 41.58.010. The members of the commission serve on a part-time basis only. All of the members of the commission represent the interests of the public. The commission reserves to itself a policy-making and appellate-review function.

(3) The executive director appointed by the commission pursuant to RCW 41.58.015(2) is the full-time agency head, with authority to act in administrative and personnel matters. Authority is also delegated to the executive director to make substantive decisions in certain types of cases, subject in adjudicative proceedings to the right of the parties to appeal to the commission.

(4) The commission's professional staff is appointed pursuant to RCW 41.58.015(3). A "multifunctional" staffing pattern is used, whereby individual members of the commission's professional staff are assigned from

time to time to conduct any or all of the types of dispute resolution services provided by the agency. Authority is delegated to members of the professional staff to make decisions as "examiner" under chapters 391-45 and 391-95 WAC. The executive director may delegate authority to members of the professional staff to make decisions in certain situations under chapters 391-25 and 391-35 WAC.

(5) In the event the executive director disqualifies himself or herself from participation in a decision ((or preliminary ruling as may be required under WAC 391-25-390, 391-35-190, or 391-45-110;)) the most senior (in terms of length of service with this agency) member of the agency's mediation staff, who has not been directly involved in the particular circumstances shall make decisions and rulings otherwise required of the executive director.

READOPTED SECTION (Readopting Order 77-1, filed 1/27/77)

WAC 391-08-800 AGENCY RECORDS—PUBLIC ACCESS. The agency will maintain for public inspection: (1) An index to all proceedings filed with and processed by the agency; (2) a docket for each proceeding filed with and processed by the agency showing the actions taken on and the final resolution of each such proceeding; (3) a schedule of hearing dates assigned in particular cases; and (4) the files for all proceedings, including all documents filed with the agency in the particular case, except materials held in confidence as provided in WAC 391-08-810.

READOPTED SECTION (Readopting Order 77-1, filed 1/27/77)

WAC 391-08-810 AGENCY RECORDS—CONFIDENTIALITY. The agency, in order to protect the privacy of individual employees and in order to respect the confidential nature of the mediation process, shall not permit the disclosure to any person of (1) evidence filed as a showing of interest in support of a representation petition or motion for intervention, or (2) notes and memoranda made by any member of the commission or its staff as a recording of communication made or received while acting in the capacity of a mediator between the parties to a labor dispute.

AMENDATORY SECTION (Amending Order 80-4, filed 9/30/80, effective 11/1/80)

WAC 391-08-820 AGENCY OFFICES. (1) The agency maintains its principal office in the city of Olympia, Washington at 603 Evergreen Plaza, 711 Capitol Way, Olympia, Washington 98504. The mailing address of the Olympia office is: 603 Evergreen Plaza, FJ-61, Olympia, Washington 98504.

(2) The agency maintains a branch office at West 55 Mission, Suite 1, Spokane, Washington 99201.

(3) The agency maintains a branch office at 322 Washington Mutual Bank Building, 32 North Third Street, Yakima, Washington 98901.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 391-08-110 SERVICE OF PROCESS—BY WHOM SERVED.

WAC 391-08-160 SERVICE OF PROCESS—OPPORTUNITY FOR HEARING.

WAC 391-08-200 DEFINITION OF ISSUES—BEFORE HEARING.

WAC 391-08-210 DEFINITION OF ISSUES—PREHEARING CONFERENCE.

WAC 391-08-500 DECLARATORY RULINGS AUTHORIZED.

WAC 391-08-510 DECLARATORY RULINGS—PETITION.

WAC 391-08-600 AGENCY DECISIONS—FORM AND CONTENT.

WAC 391-08-900 PETITIONS FOR RULE MAKING—WHO MAY PETITION.

WAC 391-08-910 PETITIONS FOR RULE MAKING—FORM.

WAC 391-08-920 PETITIONS FOR RULE MAKING—AGENCY MUST CONSIDER.

WAC 391-08-930 PETITIONS FOR RULE MAKING—NOTICE OF DISPOSITION.

**WSR 89-24-025
EMERGENCY RULES
PUBLIC EMPLOYMENT
RELATIONS COMMISSION**

[Filed November 30, 1989, 10:59 a.m.]

Date of Adoption: November 15, 1989.

Purpose: Chapter 391-25 WAC is adopted to set forth complete procedures for the processing of representation cases before the commission.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: RCW 41.58.050, 28B.52.080, 41.56.090 and 41.59.110.

Other Authority: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Rules adopted pursuant to chapter 34.05 RCW to harmonize with (where possible) or supplant (where necessary as described below) chapter 10-08 WAC as amended effective July 15, 1989. Readoption on an emergency basis is required because the chairman of the commission has resigned and a successor has not been appointed.

WAC 391-25-001 Scope—Contents—Other rules.

Purpose: Introduces chapter 391-25 WAC, makes cross-references to other rules.

Statute: Chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW (hereinafter: "substantive statutes"), generally.

Summary: Refers to other rules, as follows: Chapter 10-08 WAC for conduct of "adjudicative proceedings", generally; chapter 391-08 WAC for general procedural rules; chapter 391-35 WAC for unit clarification cases; chapter 391-45 WAC for unfair labor practice cases; chapter 391-55 WAC for impasse resolution cases; chapter 391-65 WAC for grievance arbitration cases; and chapter 391-95 WAC for union security cases.

Reasons: RCW 34.05.250 permits agencies to adopt rules different from model rules by stating reasons for variance. WAC 10-08-001 is similar.

Explanation: Readoption of existing rule is necessary to identify the areas where PERC does things differently than chapter 10-08 WAC. Details of the interface between chapters 391-08 and 10-08 WAC are specified in WAC 391-08-001.

WAC 391-25-002 Sequence and numbering of rules—Special provisions.

Purpose: Descriptive only.

Statute: Substantive statutes, generally.

Summary: Explains how rules are numbered to identify exceptions to general rules.

Reasons: RCW 41.58.005(1) admonishes PERC to be "uniform" in the administration of state collective bargaining laws. This WAC chapter regulates proceedings under several different statutes under PERC's jurisdiction. Those statutes have many similarities and some differences.

Explanation: Readoption of existing rule is necessary to preserve a numbering scheme in which exceptions to general rules immediately follow the general rule on the same subject. (General rules applicable to all of the statutes under PERC's jurisdiction have WAC numbers divisible by ten; if a particular statute requires a deviation from the general rule, it receives a separate number in the same decile.)

WAC 391-25-010 Petition for investigation of a question concerning representation of employees—Who may file.

Purpose: Specifies who may file representation petition with PERC.

Statute: RCW 28B.52.080, 41.56.040, 41.58.050 and 41.59.110.

Summary: General rule is that representation petition may be filed by an individual employee, group of employees, employee organization, employer or their agents.

Reasons: RCW 34.05.010(11) does not define who may file representation petition. RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Model rules silent with repeal of WAC 10-08-020.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA.

This is fundamentally a substantive policy drawn from the applicable statutes.

WAC 391-25-012 Special provision—Educational employees.

Purpose: Special rule on representation petitions concerning certificated employees of K-12 school districts.

Statute: RCW 41.59.070 (1) and (4).

Summary: Excludes employers from filing representation petitions involving certificated employees of K-12 school districts.

Reasons: Unique feature of a particular substantive statute is captured in this rule, which has limited applicability to a discrete segment of PERC's clientele.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statute.

WAC 391-25-030 Petition—Time for filing.

Purpose: Specifies time periods in which representation petitions may be filed.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Establishes "contract bar" and "certification bar" time periods when representation petitions will not be processed.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.413(2) specifies that an adjudicative proceeding can be initiated at any time. RCW 34.05.416 permits agency to determine circumstances when adjudicative proceeding will not be held. WAC 10-08-230 encourages informal settlements. Substantive statutes administered by PERC contain "contract bar" and "certification bar" concepts which are designed to preserve stability for obtaining settlements, consistent with long standing federal precedent in the labor-management relations field.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes and agency expertise.

WAC 391-25-050 Petition form—Number of copies—Filing—Service.

Purpose: Specifies number of copies and filing of petition at Olympia office; requires service on other parties.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070 and 41.59.070.

Summary: Party initiating representation case with PERC must file original and three copies with PERC's Olympia office, and must serve other parties.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 provides loosely for an "application for an adjudicative proceeding." WAC 10-08-110 would permit filing at "any" office of the agency.

Explanation: Readoption of existing rule is necessary to avoid claim of conflict with model rules. An original and three copies of documents are needed for circulation

to the members of the commission in the event of intra-agency appeals. Filing at the Olympia office is necessary because PERC's Yakima and Spokane offices are not staffed on a full-time basis (making it difficult to ascertain compliance with "contract bar" and "certification bar" time limitations) and because all docketing and initial processing by the executive director are performed at Olympia.

WAC 391-25-070 Contents of petition.

Purpose: Specifies contents of representation petition.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.59.070 and 41.59.080.

Summary: Requires identifying information for agency docket records and for efficient processing by PERC. Requires petitioning party to identify type of representation issue as: Organizing of unorganized employees; seeking a change of bargaining representatives; or an effort to decertify an existing representative.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 is permissive as to the use of forms provided by an agency and provides loosely for an "application for an adjudicative proceeding" to specify the issue to be adjudicated in the proceeding.

Explanation: Readoption of existing rule is necessary to facilitate prompt agency response to representation petitions, by requiring the details needed for case processing. Repeal of WAC 10-08-020 cast doubt on PERC's authority to require use of its forms under the model rules.

WAC 391-25-090 Contents of petition filed by employer.

Purpose: Allows representation petitions to be filed by an employer.

Statute: RCW 28B.52.080, 41.56.040 and 41.58.050.

Summary: General rule permitting employers to file representation petitions if specified conditions exist. Provides detailed list of requirements for employer petitions.

Reasons: RCW 34.05.010(11) does not define who may file representation petition. RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 is permissive as to the use of forms provided by an agency. Model rules otherwise silent with repeal of WAC 10-08-020.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes and agency expertise. It is of utmost importance to insure that employers are not engaged in coercive attempts to decertify existing bargaining representatives. The existing rule gives clear guidance as to what information an employer must provide if the employer files a representation petition.

WAC 391-25-092 Special provision—Educational employees.

Purpose: Special rule on representation petitions concerning certificated employees of K-12 school districts.

Statute: RCW 41.59.070 (1) and (4).

Summary: Excludes employers from filing representation petitions involving certificated employees of K-12 school districts.

Reasons: Unique feature of a particular substantive statute is captured in this rule, which has limited applicability to a discrete segment of PERC's clientele.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statute.

WAC 391-25-110 Supporting evidence.

Purpose: Requires evidence of employee support in the filing of representation cases.

Statute: RCW 28B.52.080, 41.56.070 and 41.59.070.

Summary: Requires 30% "showing of interest" to support representation petition filed by employees or union. Specifies requirements for such supporting documentation.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.413(2) specifies that an adjudicative proceeding can be initiated at any time. RCW 34.05.416 permits agency to determine circumstances when adjudicative proceeding will not be held. WAC 10-08-230 encourages informal settlements. Substantive statutes administered by PERC contain "showing of interest" concept which is designed to preserve stability for obtaining settlements, consistent with long standing federal precedent in the labor-management relations field.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes and agency expertise.

WAC 391-25-130 List of employees.

Purpose: Requires employer to provide list of employees to PERC and, under certain circumstances, to others.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Requires employers to provide lists of employees in proposed bargaining unit. The showing of interest is compared against the list of employees to determine whether petition is supported by requisite percentage of employees.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.413(2) specifies that an adjudicative proceeding can be initiated at any time. RCW 34.05.416 permits agency to determine circumstances when adjudicative proceeding will not be held. WAC 10-08-230 encourages informal settlements. Substantive statutes administered by PERC contain "showing of interest" concept, consistent with long standing federal precedent in the labor-management relations field. Rule calling for early exchange of information promotes informal settlements.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes and agency expertise.

WAC 391-25-140 Notice to employees.

Purpose: Requires notice to inform employees of the existence of representation proceedings.

Statute: RCW 28B.52.080, 41.56.050, 41.58.050 and 41.59.110.

Summary: Employer is obligated to post PERC-provided notices to advise employees that a representation proceeding has been initiated.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. While RCW 34.05.413(5) discusses the initiation of adjudicative proceedings, many representation cases can be resolved without the need for hearing. WAC 10-08-230 encourages informal settlements. Rule calling for early exchange of information promotes informal settlements.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes and agency expertise, to reduce or eliminate interference with employee rights due to miscommunications or misinformation.

WAC 391-25-150 Amendment and withdrawal.

Purpose: Allows amendment and withdrawal of representation petitions.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.58.050 and 41.59.110.

Summary: Petitioning party may withdraw or amend representation petition under conditions that the executive director or commission may impose.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.060 encourages informal settlements. WAC 10-08-230 provides for informal settlements, but does not clearly cover amendments or withdrawals of petitions.

Explanation: Readoption of existing rule is necessary to avoid conflict with the model rules. The parties to representation cases are creating ongoing relationships and are quite capable of drafting and signing their own settlement agreements, so that informal settlements are frequently communicated to PERC as a simple "amendment" or "withdrawal" of a case.

WAC 391-25-170 Intervention—By incumbent representative.

Purpose: Regulates intervention by incumbent exclusive bargaining representative in representation proceedings.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Permits incumbent union to intervene within specified time, without making a showing of interest.

Reasons: RCW 34.05.443 regulates "intervention" by reference to other provisions of law. Incumbent exclusive bargaining representative is entitled under federal and state precedent to (rebuttable) presumption of continuing majority status.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from

the applicable statutes and agency expertise, to make the traditional "presumption" of majority status to suffice for the 10% showing of interest.

WAC 391-25-190 Intervention—By organization other than incumbent.

Purpose: Regulates intervention by interested parties other than incumbent in representation proceedings.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Requires 10% showing of interest by organization other than incumbent exclusive bargaining representative.

Reasons: RCW 34.05.443 regulates "intervention" by reference to other provisions of law. Substantive statutes administered by PERC contain "showing of interest" concept, consistent with long standing federal precedent in the labor-management relations field.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes and agency expertise.

WAC 391-25-210 Showing of interest confidential.

Purpose: Prohibits disclosure of employees' sentiments regarding union representation.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Maintains strict confidentiality of authorization cards submitted as "showing of interest" in support of representation petition.

Reasons: RCW 34.05.010 (3)(b) specifically exempts determinations of the sufficiency of showings of interest from the definition of "agency action." RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Substantive statutes administered by PERC contain "showing of interest" concept, consistent with long standing federal precedent in the labor-management relations field.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes and agency expertise.

WAC 391-25-220 Prehearing conferences.

Purpose: To encourage settlements prior to investing state resources in a formal hearing.

Statute: RCW 28B.52.073, 41.56.040, 41.58.050 and 41.59.110.

Summary: Prehearing conferences will routinely be conducted in representation cases, to deal with both procedural and substantive matters.

Reasons: RCW 34.05.060 encourages informal settlements. RCW 34.05.431(1) requires agency to adopt rules specifying conditions and manner in which pre-hearing conferences are to be held. WAC 10-08-130 provides for conduct of prehearing conferences. WAC 10-08-230 provides for informal settlements, but imposes obligations on the agency which are not common on labor-management relations.

Explanation: Adoption of new rule is necessary to continue successful existing procedures and to meet the

requirements of the new APA. PERC uses "prehearing conferences" in virtually all representation cases.

WAC 391-25-230 Election agreements.

Purpose: To encourage settlements prior to investing state resources in a formal hearing.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.58.050, 41.59.070 and 41.59.080.

Summary: Specifies items to be stipulated (in accordance with agency-provided form) to proceed to representation election without a hearing.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-230 encourages the settlement of adjudicative proceedings prior to hearing, but only generally specifies the items to be agreed upon and the form of their submission to the agency.

Explanation: Readoption of existing rule is necessary to preserve efficiency while advancing the preference for informal settlements. The election agreement procedure eliminates the need for litigation, and allows for an election to be conducted as quickly as possible, in most PERC representation cases.

WAC 391-25-250 Cross-check agreements.

Purpose: To encourage settlements prior to investing state resources in a formal hearing.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070 and 41.58.050.

Summary: General rule specifying items to be stipulated (in accordance with agency-provided form) to proceed to representation cross-check without a hearing.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-230 encourages the settlement of adjudicative proceedings prior to hearing, but only generally specifies the items to be agreed upon and the form of their submission to the agency.

Explanation: Readoption of existing rule is necessary to preserve efficiency while advancing the preference for informal settlements. The cross-check agreement procedure eliminates the need for litigation, and allows for an election to be conducted as quickly as possible, in some PERC representation cases.

WAC 391-25-252 Special provision—Educational employees.

Purpose: Special rule on representation petitions concerning certificated employees of K-12 school districts.

Statute: RCW 41.59.070 (1) and (4).

Summary: Excludes representation proceedings involving certificated employees of K-12 school districts from the cross-check procedures of WAC 391-25-250.

Reasons: Unique feature of a particular substantive statute is captured in this rule, which has limited applicability to a discrete segment of PERC's clientele.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statute.

WAC 391-25-253 Special provision—Academic employees.

Purpose: Special rule on representation petitions concerning academic employees of community college districts.

Statute: RCW 28B.52.030 and 28B.52.080.

Summary: Excludes representation proceedings involving academic employees of community college districts from the cross-check procedures of WAC 391-25-250.

Reasons: Unique feature of a particular substantive statute is captured in this rule, which has limited applicability to a discrete segment of PERC's clientele.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statute.

WAC 391-25-270 Supplemental agreements.

Purpose: To encourage settlements prior to investing state resources in a formal hearing.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.58.050, 41.59.070 and 41.59.080.

Summary: Specifies items to be stipulated (in accordance with agency-provided form) to proceed to representation election or cross-check without a hearing, while reserving specific issues for determination after the question concerning representation is determined.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-230 encourages the settlement of adjudicative proceedings prior to hearing, but only generally specifies the items to be agreed upon and the form of their submission to the agency.

Explanation: Readoption of existing rule is necessary to preserve efficiency while advancing the preference for informal settlements. The supplemental agreement procedure eliminates the need for litigation, and allows for an election to be conducted as quickly as possible, in some PERC representation cases.

WAC 391-25-290 Notice of hearing.

Purpose: Explains procedure for determining whether to issue a notice of hearing in a representation case.

Statute: RCW 28B.52.080, 41.56.040, 41.58.050 and 41.59.110.

Summary: Authorizes executive director to determine whether a notice of hearing will be issued in a representation case. Specifies parties to whom notices of hearing are to be issued.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.434 sets out the type of information generally required in notices of hearing. WAC 10-08-040 prescribes specific rules as to the contents of the notice. RCW 34.05.416 provides for the disposition of cases where the agency concludes that no adjudicative proceeding should be conducted.

Explanation: Readoption of existing rule delegates substantive decision-making authority to the executive director, to conduct what amounts to an automatic

"summary judgment" on the contents of the complaint, and does not conflict with the model rules.

WAC 391-25-299 Special provision—Private sector employees.

Purpose: Limits PERC authority to conduct representation cases involving private sector employees.

Statute: Chapter 49.08 RCW.

Summary: PERC suspends processing of private sector representation cases in absence of consent of all parties.

Reasons: PERC conducts representation proceedings in the private sector only as "arbitration" or "mediation" exercises under chapter 49.08 RCW, and then only by consent of all parties.

Explanation: Readoption of existing rule is necessary to continue substantive policy exempting private sector employees and employers from PERC proceedings absent their mutual consent.

No "small business" impact is anticipated, since no change is proposed. (Parties to which this rule applies may be subject to representation proceedings before the National Labor Relations Board under federal law.)

WAC 391-25-310 Hearings—Who shall conduct.

Purpose: Defines who may hear representation cases.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41-.59.070, 41.59.080 and 53.18.015.

Summary: Hearing officer can be PERC staff member or agency designee. Hearing officers may be substituted.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-050 discusses the use of personnel supplied by the Office of Administrative Hearings, but PERC is exempt from the Office of Administrative Hearings and chapter 34.12 RCW. The chief administrative law judge does not govern the matters covered by this rule.

Explanation: Readoption of existing rule is necessary because the "agency head" generally does not generally preside over PERC's adjudicative hearings.

WAC 391-25-350 Hearings—Nature and scope.

Purpose: Defines representation hearings as investigatory.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41-.59.070, 41.59.080 and 53.18.015.

Summary: Defines the hearing as public and investigatory between parties, with agency taking impartial, but active, role.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.449(5) provides for hearings to be "public" but model rules are silent following repeal of language in WAC 10-08-190. In addition, the rule no longer speaks to sequestering of witnesses. Chapter 34.05 RCW and chapter 10-08 WAC are written to apply to "adjudicative proceedings" where the agency itself takes an advocacy role, and so do not adequately describe the "impartial" investigatory role of PERC in representation hearings.

Explanation: Amendment of existing rule is necessary to define the impartial investigatory posture of PERC,

while permitting the sequestering of witnesses. This will not conflict with the model rules' directives, and will maintain important components of PERC hearings.

WAC 391-25-370 Blocking charges—Suspension of proceedings—Request to proceed.

Purpose: Suspends representation proceedings in cases where unfair labor practices have also been filed.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Permits suspension of representation proceedings where unfair labor practice charges have been filed affecting the situation. Permits party that filed the unfair labor practice complaint to request to proceed by waiving right to file objections on conduct covered by unfair labor practice case.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.416 permits agency to determine that no adjudicative proceeding should be conducted. Chapter 10-08 WAC is silent. This rule delegates substantive decision-making authority to the executive director, to suspend one subtype of adjudicative proceeding before the agency pending the outcome of another subtype of adjudicative proceeding, consistent with federal precedent.

Explanation: Readoption of the existing rule follows well-accepted policy in this area. Although affecting procedure, the decision concerning the sequence of case processing is fundamentally substantive in nature, based on federal precedent which requires that "laboratory conditions" be maintained for employees to exercise free choice in an election.

WAC 391-25-390 Proceedings before the executive director.

Purpose: Delegates decision-making authority in representation matters and sets forth limited rights of appeal at this stage of the proceedings.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41-.58.050, 41.59.070 and 41.59.080.

Summary: Delegates decision-making authority to executive director for initial decision on all representation case issues. Permits delegation of certain types of issues to hearing officer. Limits right of appeal at this stage of case to "jurisdiction" and dismissals.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 41.58.015(2) permits commission to delegate decision-making authority, subject to right of parties to petition for review by full commission. WAC 10-08-211 calls for a 20-day period for filing a petition for review after any initial decision.

Explanation: Readoption of the existing rule continues a well-accepted and efficient procedure.

(1) Representation cases involve a limited number and type of issues, and consistency of agency policy is vital to the process of labor-management relations. The existing rule centralizes representation case determinations, making the executive director responsible for overall consistency as well as the outcomes of individual cases.

(2) Delays in resolution of representation disputes are particularly destructive, so PERC has made a policy decision to "postpone" the right of parties to appeal until after the election or cross-check, when practical considerations (e.g., the actual outcome of the election) and other potential issues (e.g., misconduct during the pre-election campaign) can be merged into one review of the case by the commission. This procedure was developed by analysis of the bottlenecks in the procedures of other labor relations agencies, and has been highly successful in operation for more than 10 years.

WAC 391-25-391 Special provision—Public employees.

Purpose: Permits executive director to order a cross-check to resolve a representation dispute in certain circumstances.

Statute: RCW 41.56.060.

Summary: Special rule for use in cases arising under chapter 41.56 RCW, where only one employee organization is involved in the proceedings. Allows executive director to order a cross-check of employment records to determine a representation case.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent. RCW 41.56.060 specifically permits determination of question concerning representation by cross-check methodology.

Explanation: Readoption of the existing rule implements statutory and expedient alternative method for determining certain representation matters.

WAC 391-25-410 Cross-check of records.

Purpose: Specifies procedures for cross-check of employment records.

Statute: RCW 41.56.060.

Summary: General rule specifying what constitutes acceptable "employment records" for purposes of cross-checks. Details procedures to be followed in determining a question concerning representation by cross-check.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent. RCW 41.56.060 specifically permits determination of question concerning representation by cross-check methodology.

Explanation: Readoption of the existing rule implements statutory and expedient alternative method for determining certain representation disputes. Cross-check procedures were controversial when PERC came into existence. The existing rule (which reflects long-established agency policy and practice) is the product of substantial debate in earlier rule-making proceedings, and has been well-received by the parties.

WAC 391-25-412 Special provision—Educational employees.

Purpose: Special rule on representation proceedings involving certificated employees of K-12 school districts.

Statute: RCW 41.59.070.

Summary: Cross-check procedures of WAC 391-25-410 are made inapplicable to cases arising under chapter 41.59 RCW.

Reasons: RCW 41.59.070 requires elections to determine questions concerning representation involving certificated employees of K-12 school districts, except as a remedy for massive unfair labor practices.

Explanation: Readoption of existing rule implements the applicable statute. A "bargaining order" or "cross-check order" would be issued as part of an unfair labor practice decision, where appropriate.

WAC 391-25-413 Special provision—Academic employees.

Purpose: Special rule on representation proceedings involving academic employees of community college districts.

Statute: RCW 28B.52.030 and 28B.52.080.

Summary: Cross-check procedures of WAC 391-25-410 are made inapplicable to cases arising under chapter 28B.52 RCW.

Reasons: RCW 28B.52.030 and 28B.52.080 refer only to elections to determine questions concerning representation involving academic employees of community college districts.

Explanation: Readoption of existing rule implements the applicable statute.

WAC 391-25-430 Notice of election.

Purpose: Sets forth procedures for the issuance and posting of election notices.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.58.050 and 41.59.070.

Summary: Describes the procedures for the issuance and posting of election notices. Details elements to be included in the election notice.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is needed to deal with an area not covered by the model rules. This type of notice is distinctly different from the "notice of hearing" regulated by WAC 10-08-040. At this point in the proceedings, a hearing may or may not have been held or necessary. The specifics of representation election procedures are fundamentally substantive in nature, drawn from federal precedent and agency expertise.

WAC 391-25-450 Disclaimers.

Purpose: Allows employee organization to have its name removed from the ballot in representation election.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Permits an organization to withdraw its name from consideration in a representation case; imposes sanctions for disclaimer made after election choices have been presented officially to eligible voters.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is needed to deal with an area not covered by the model rules. This rule is fundamentally substantive in nature, and follows long-established agency policy based on federal precedent and agency expertise.

WAC 391-25-470 Electioneering.

Purpose: Impose substantive limitations on preelection campaign conduct by parties and their representatives.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.070.

Summary: Prohibits "captive audience" meetings with eligible voters within 24 hours prior to opening of polls or while mail ballots are out to voters; prohibits electioneering at polling places.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is necessary to maintain substantive provisions dealing with election campaigns, following long-established federal and agency precedent and agency expertise.

WAC 391-25-490 Election procedures—Balloting.

Purpose: Details balloting procedures.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.070.

Summary: Specifies that all elections shall be by secret ballot. Prohibits absentee balloting. Describes use of "on-site" and "mail ballot" procedures.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule to provide guidelines for the actual voting process, consistent with federal precedent and agency expertise.

WAC 391-25-510 Challenged ballots.

Purpose: Provide a means to resolve challenges to voter eligibility issues.

Statute: RCW 28B.52.080, 41.56.040, 41.58.050 and 41.59.110.

Summary: Establishes procedures to be followed if a voter is challenged. Where challenged ballots are sufficient in number to affect the outcome of the election, the representation dispute will be held in abeyance while the eligibility of the challenged voters is determined.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is necessary because the rule deals with substantive issues not covered by the APA or model rules. The PERC rule is drawn from federal precedent, the applicable statutes and agency expertise.

WAC 391-25-530 Votes needed to determine election.

Purpose: Explains necessary percentages to determine a representation election.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: General rule provides that unit determination elections shall be decided by a majority of those eligible to vote. Provides that representation elections shall be decided by a majority of those voting.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule implements substantive provisions of applicable statutes, consistent with federal precedent and agency expertise.

WAC 391-25-531 Special provision—Public employees.

Purpose: Special rule for certain elections under chapter 41.56 RCW.

Statute: RCW 41.56.070.

Summary: In the event of two or more employee organizations appearing on a representation ballot under chapter 41.56 RCW, a majority of those employees eligible to vote must select one of the choices listed to validate a result on the first ballot.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule implements the applicable statute.

WAC 391-25-550 Tally sheet.

Purpose: Explains vote counting procedures at the close of a representation election.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Specifies that a tally sheet shall be prepared at the close of the polls in a representation election. Provides that challenged ballots may affect the outcome of an election.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is necessary to set forth election procedures which are not otherwise covered by the APA or the model rules. The tally of ballots starts the period for "appeal."

WAC 391-25-570 Procedure following inconclusive election.

Purpose: Establishes procedures for run-off election in the event the initial representation election is inconclusive.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Provides that a run-off election will be conducted between the two choices receiving the most votes in the initial election. Provides for limited right of "appeal" where a party claims that a choice is improperly being excluded from the run-off election.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is necessary to set forth election procedures and substantive policies not otherwise covered by the APA or by the model rules. The limited right to appeal is in harmony with the purposes of WAC 391-25-390.

WAC 391-25-590 Filing and service of objections.

Purpose: Explains appeal procedures after a representation election or cross-check has been conducted.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Provides a seven day appeal period following the issuance of tally sheet reporting results of representation election or cross-check. Specifies the grounds for appeal as either: Misconduct during preelection campaign; or previous rulings in the case. Requires service of objections on opposing parties.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-211 establishes a 20 day appeal period for review of "initial orders." Federal precedent and labor-management relations practice generally permits only a one-week period for appeal of "campaign misconduct" following an election.

Explanation: Readoption of existing rule is necessary because the model rule appeal period would cause undue disruption of the representation process. The existing rule enhances the prompt resolution of representation issues, by merging the opportunity for appeal of prior rulings with the traditional opportunity to file "objections." This procedure has been efficient and effective for PERC and its clientele for more than 10 years.

WAC 391-25-610 Procedure where no objections are filed.

Purpose: Delegates final authority where there is no appeal or objection to a conclusive election.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.58.050 and 41.59.070.

Summary: Delegates authority to executive director to issue a final certification if there are no challenges to the conduct of a conclusive election. That certification closes the representation case.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.464(1) permits agency to delegate final order authority in certain types of cases. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is necessary to the prompt disposition of representation cases where there is no appeal or further controversy.

WAC 391-25-630 Procedure where objections are filed.

Purpose: Specifies appeal procedures in representation cases.

Statute: RCW 28B.52.080, 41.56.040, 41.58.050 and 41.59.110.

Summary: Authorizes executive director to conduct hearing where objections to preelection campaign conduct raise issues of fact. Provides for transfer of full record to commission.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Election "objections" may raise new fact issues giving rise to a right to a hearing.

Explanation: Readoption of existing rule is necessary. The APA and model rules contain different appeal procedures which anticipate that the factual record will already be complete. The existing rule is derived from federal precedent and agency practices that have been efficient for more than 10 years. Any change of these well-established appeal procedures would create problems for the parties.

WAC 391-25-650 Briefs and written arguments on objections.

Purpose: Provides time periods for the submission of briefs in support of appeals from representation cases.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.58.050 and 41.59.070.

Summary: Specifies that appeal briefs must be filed within 14 days following specified events. Requires filing of briefs at the Olympia office and service on opposing parties.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-211 establishes periods for filing of appeal briefs.

Explanation: Readoption of the existing rule is appropriate to reflect the unique nature of representation cases. The APA and model rules contain different appeal procedures which anticipate that the factual record will already be complete. The existing rule is derived from federal precedent and agency practices that have been efficient for more than 10 years. Any change of these well-established appeal procedures would create problems for the parties.

WAC 391-25-670 Commission action on objections.

Purpose: Describes commission action when appeals are filed.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.070.

Summary: Permits commission to ask for oral arguments on appeals, and to make appropriate remedial orders.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. The model rules are silent as to the actual conduct of appeals procedures before an appellate body. The commission itself makes the "initial" ruling on "objections" concerning misconduct during election campaigns.

Explanation: Readoption of existing rule reflects unique nature of representation proceedings and does not conflict with the APA or model rules.

Effective Date of Rule: Immediately.

November 29, 1989

Marvin L. Schurke
Executive Director

AMENDATORY SECTION (Amending Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the public employment relations commission on petitions for investigation of questions concerning representation of employees. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 391-25 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-25-070;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by WAC 391-25-390 and 391-25-590; and

(d) WAC 10-08-230, which is supplanted by WAC 391-25-150, 391-25-220, 391-25-230, 391-25-250, and 391-25-270.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

((2))) (3) Chapter 391-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing bargaining unit.

((3))) (4) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

((4))) (5) Chapter 391-55 WAC, which contains rules relating to resolution of impasses occurring in collective bargaining.

((5))) (6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

((6))) (7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

READOPTED SECTION (Readopting Order 83-02, filed 12/1/83, effective 1/1/84)

WAC 391-25-002 SEQUENCE AND NUMBERING OF RULES—SPECIAL PROVISIONS. This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (professional negotiations—academic faculties of community college districts) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 49.08 RCW (private sector employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-010 PETITION FOR INVESTIGATION OF A QUESTION CONCERNING REPRESENTATION OF EMPLOYEES—WHO MAY FILE. A petition for investigation of a question concerning representation of employees, hereinafter referred to as a "petition," may be filed by any employee, group of employees, employee organization, employer or their agents.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-012 SPECIAL PROVISION—EDUCATIONAL EMPLOYEES. A petition may be filed under chapter 41.59 RCW only by an employee organization or its agents (RCW 41.59.070(1)), or by employees, one of whom shall be designated as agent (RCW 41.59.070(4)).

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-030 PETITION—TIME FOR FILING. In order to be timely filed:

(1) Where there is a valid written and signed collective bargaining agreement in effect covering an appropriate bargaining unit which includes any or all of the employees to be affected by the petition, a petition must be filed during the period not more than ninety nor less than sixty days prior to the expiration date of the collective bargaining agreement, or after the expiration thereof.

(2) Where a certification has been issued by the agency covering an appropriate bargaining unit which includes any or all of the employees to be affected by the petition, a petition must be filed not less than twelve months following the date of the certification.

(3) Where neither subsections (1) nor (2) of this section are applicable, a petition may be filed at any time.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-050 PETITION FORM—NUMBER OF COPIES—FILING—SERVICE. Each petition shall be prepared on a form furnished by the commission or on a facsimile thereof. The original and three copies of the petition shall be filed with the agency at its Olympia office. The party filing the petition shall serve a copy on the employer and on each employee organization named in the petition as having an interest in the proceedings.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-070 CONTENTS OF PETITION. Each petition shall contain:

(1) The name and address of the employer and, if known, the name, address and telephone number of the

employer's principal representative in matters concerning relationships between the employer and its employees.

(2) A description of the bargaining unit which the petitioner claims to be appropriate, specifying inclusions and exclusions, and, if known, the approximate number of employees in such bargaining unit.

(3) The names and, if known, the addresses and telephone numbers of the principal representatives of any organizations which may claim to represent any of the employees in the bargaining unit which the petitioner claims to be appropriate.

(4) A statement that: (a) The employer declines, after having been requested to do so, to recognize the petitioner as the exclusive representative of the employees in the bargaining unit which the petitioner claims to be appropriate, or (b) the employees in the bargaining unit which the petitioner claims to be appropriate wish to change their exclusive bargaining representative, or (c) the employees in the bargaining unit do not wish to be represented by an employee organization.

(5) Any other relevant facts.

(6) The name, address and affiliation, if any, of the petitioner and the name, address and telephone number of the principal representative, if any, of the petitioner.

(7) The signature and, if any, the title of the petitioner or its representative.

READOPTED SECTION (Readopting Order 88-02, filed 5/31/88)

WAC 391-25-090 CONTENTS OF PETITION FILED BY EMPLOYER. Each petition filed by an employer shall contain all of the information required by WAC 391-25-070, except for that required by WAC 391-25-070(4), and shall conform to the following additional requirements:

(1) Each petition filed by an employer shall contain a statement that the employer has been presented with a demand by an organization seeking recognition as the exclusive representative of the employees in the bargaining unit described in the petition.

(2) WAC 391-25-110 shall not be applicable to such petitions.

(3) Where the status of an incumbent exclusive bargaining representative is questioned, the employer shall attach such affidavits and other documentation as may be available to it to demonstrate the existence of a good faith doubt concerning the representation of its employees. To constitute a basis for a good faith doubt under this paragraph, signature documents provided to the employer by employees must be in a form which would qualify as supporting evidence under WAC 391-25-110 if filed by the employees directly with the commission.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-092 SPECIAL PROVISION—EDUCATIONAL EMPLOYEES. WAC 391-25-090 is inapplicable to petitions filed under chapter 41.59 RCW. See WAC 391-25-012.

READOPTED SECTION (Readopting Order 88-02, filed 5/31/88)

WAC 391-25-110 SUPPORTING EVIDENCE. The original petition shall be accompanied by a showing of interest indicating that the petitioner has the support of not less than thirty percent of the employees in the bargaining unit which the petitioner claims to be appropriate. The showing of interest must be timely filed under the same standards applicable to the petition, and must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. Such authorization cards shall not be valid unless signed and dated during the ninety-day period preceding the filing of the petition or the filing of such evidence with the agency, whichever is later.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-130 LIST OF EMPLOYEES. The employer shall submit to the commission a list containing the names and last known addresses of all of the employees in the bargaining unit described in the petition. Following administrative determination that the petition is supported by a sufficient showing of interest, the employer shall, upon request, provide a copy of the list of names and addresses to the petitioner. Following granting of a motion for intervention, the employer shall, upon request, provide a copy of the list of names and addresses to the intervenor.

READOPTED SECTION (Readopting Order 88-02, filed 5/31/88)

WAC 391-25-140 NOTICE TO EMPLOYEES. The employer shall post a notice to employees, in the form specified by the commission, advising of the existence of proceedings under this chapter. The agency shall furnish the employer with copies of such notice, and the employer shall post them in conspicuous places on its premises where notices to affected employees are usually posted.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-150 AMENDMENT AND WITHDRAWAL. Any petition may be amended or withdrawn by the petitioner under such conditions as the executive director or the commission may impose.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-170 INTERVENTION—BY INCUMBENT REPRESENTATIVE. An organization which demonstrates that it has been the exclusive representative of all or any part of the bargaining unit involved in proceedings under this chapter during the year preceding the filing of the petition may, by motion, intervene in the proceedings and, upon granting of its motion for intervention, shall be entitled to participate in the proceedings and to have its name listed as a choice on the ballot in any election. No motion for intervention

shall be considered if made after the close of the hearing on the petition or more than seven days after the filing and posting of an election agreement or cross-check agreement.

READOPTED SECTION (Readopting Order 88-02, filed 5/31/88)

WAC 391-25-190 INTERVENTION—BY ORGANIZATION OTHER THAN INCUMBENT. An organization not covered by WAC 391-25-170 may, by motion, intervene in proceedings under this chapter and, upon granting of its motion for intervention, shall be entitled to participate in the proceedings and have its name listed as a choice on the ballot in any election. The motion for intervention shall be supported by a showing of interest indicating that the intervenor has the support of not less than ten percent of the employees in the bargaining unit which the petitioner claims to be appropriate or of not less than thirty percent of the employees in whatever different bargaining unit the intervenor claims to be appropriate. The showing of interest must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. Such authorization cards shall not be valid unless signed and dated during the ninety-day period preceding the filing of the motion for intervention or the filing of such evidence with the agency, whichever is later. The showing of interest shall be made confidentially to the agency at or before the time the motion for intervention is made: PROVIDED, HOWEVER, That a motion for intervention may be granted conditionally subject to the subsequent furnishing of a showing of interest under such conditions as the agency may impose to avoid undue delay of the proceedings. No motion for intervention shall be considered if made after the close of the hearing on the petition or more than seven days after the filing and posting of an election agreement or cross-check agreement.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-210 SHOWING OF INTEREST CONFIDENTIAL. The question of whether a showing of interest requirement for a petition or for intervention has been satisfied is a matter for administrative determination by the agency and may not be litigated at any hearing. The agency shall not disclose the identities of employees whose authorization cards or letters are filed in support of a petition or motion for intervention. In order to preserve the confidentiality of the showing of interest and the right of employees freely to express their views on the selection of a bargaining representative, the agency shall not honor any attempt to withdraw or diminish a showing of interest.

NEW SECTION

WAC 391-25-220 PREHEARING CONFERENCES. The commission routinely conducts prehearing conferences to discuss with the parties all contested issues of law and fact which may arise in representation

cases. The parties are encouraged to reach binding stipulations on all issues during the course of the prehearing conference. Such stipulations are embodied in election agreements, cross-check agreements, and/or supplemental agreements provided for in this chapter.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-230 ELECTION AGREEMENTS. Where an employer and all other parties agree on a representation election, they may file an election agreement with the executive director. Such election agreement shall contain:

(1) The name and address of the employer and the name, address and telephone number of its principal representative.

(2) The names and addresses of all other parties participating in the election agreement and the names, addresses and telephone numbers of their principal representatives.

(3) A description of the bargaining unit agreed to be appropriate, specifying inclusions and exclusions, and the number of employees in such unit.

(4) A statement by all parties that: (a) No organization is known which is or may be entitled to intervene as an incumbent representative, or (b) the incumbent representative is a party to the election agreement, or (c) the incumbent representative has abandoned the unit as evidenced by documentation attached to the election agreement.

(5) A statement by all parties that no other organization is known which claims to represent any of the employees in the bargaining unit; that all parties agree that a question concerning representation exists; that a hearing is waived; and that the agency is requested to proceed to conduct an election and certify the results.

(6) A list, attached to the election agreement as an appendix, containing the names of the employees eligible to vote in the election and the eligibility cut off date for the election. If the parties request that the election be conducted by mail ballot, the list shall include the last known address of each of the employees eligible to vote. If no eligibility cut off date is specified by the parties, the eligibility cut off date shall be the date on which the election agreement is filed.

(7) The suggestions of the parties as to the location, the day or days of the week and the time or times of day for the conduct of the election, or that the election be conducted by mail ballot.

(8) The signatures and, if any, the titles of all parties or their representatives.

The original and one copy of the election agreement shall be filed with the agency at its Olympia office, and copies shall be posted by the employer in conspicuous places on the employer's premises where notices to affected employees are usually posted. The election agreement shall remain posted for at least seven days after it is filed with the agency (ten days after it is deposited in the United States mail addressed to the agency).

Upon the filing of an election agreement conforming to the foregoing requirements and seeking an election in an appropriate bargaining unit, the executive director

shall proceed to conduct an election. Objections to the election by a party to the election agreement shall be limited to matters relating to specific conduct affecting the results of the election.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-250 CROSS-CHECK AGREEMENTS. Where only one organization is seeking certification as the representative of unrepresented employees, the employer and the organization may file a cross-check agreement with the executive director. Such cross-check agreement shall contain:

(1) The name and address of the employer and the name, address and telephone number of its principal representative.

(2) The name and address of the organization and the name, address and telephone number of its principal representative.

(3) The description of the bargaining unit agreed to be appropriate, specifying inclusions and exclusions and the number of employees in such unit.

(4) A statement by the parties that no other organization is known which claims to represent any of the employees in the bargaining unit; that the parties agree that a question concerning representation exists; that a hearing is waived; and that the agency is requested to conduct and certify the results of a cross-check of individually signed and dated authorization cards or membership records submitted by the organization against the employment records of the employer.

(5) A list, attached to the cross-check agreement as an appendix, containing the names of the employees in the bargaining unit.

(6) The suggestions of the parties as to the time and place where the records to be cross-checked can be made available to the agency.

(7) The agreement of the parties to be bound by the results of the cross-check.

(8) The signatures and, if any, the titles of the representatives of the parties.

The original and one copy of the cross-check agreement shall be filed with the agency at its Olympia office, and copies thereof shall be posted by the employer in conspicuous places on the employer's premises where notices to affected employees are usually posted. The cross-check agreement shall remain posted for at least seven days after it is filed with the agency (ten days after it is deposited in the United States mail addressed to the agency).

Upon the filing of a cross-check agreement conforming to the foregoing requirements and seeking a cross-check in an appropriate bargaining unit, the executive director shall proceed with the cross-check of records. The cross-check may be conducted at any time following the execution of a cross-check agreement; but no certification shall be issued until seven days have elapsed following the filing and posting of the cross-check agreement. Where a motion for intervention is timely filed and granted, no certification shall be issued on the basis of the cross-check.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-252 SPECIAL PROVISION—EDUCATIONAL EMPLOYEES. WAC 391-25-250 is inapplicable to petitions filed under chapter 41.59 RCW.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-253 SPECIAL PROVISION—ACADEMIC EMPLOYEES. WAC 391-25-250 is inapplicable to petitions filed under chapter 28B.52 RCW.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-270 SUPPLEMENTAL AGREEMENTS. Where the parties are able to agree generally on the matters to be set forth in an election agreement under WAC 391-25-230 or a cross-check agreement under WAC 391-25-250, but are unable to agree on limited issues concerning the definition of the bargaining unit or employee eligibility, they may expedite the determination of the question concerning representation while reserving their disagreement for subsequent determination by filing a supplemental agreement under this rule together with an agreement under WAC 391-25-230 or 391-25-250. Such supplemental agreement shall contain:

(1) The names of all parties to the election agreement or cross-check agreement and the case number of the proceedings.

(2) Identification of the employees or classifications as to which a dispute exists, together with the identification of the position taken by each party on the dispute.

(3) A statement by all parties requesting that employees affected by the supplemental agreement be permitted to vote by challenged ballot or be challenged for purposes of a cross-check, subject to a subsequent determination of the dispute; and that the certification of the results of the election or cross-check not be withheld pending the determination of the dispute unless the challenges are sufficient in number to affect the outcome.

(4) The signatures and, if any, the titles, of the representatives of the parties.

The original and one copy of the supplemental agreement shall be filed with the agency together with the agreement filed under WAC 391-25-230 or 391-25-250, and shall be posted with such agreement.

Upon the filing of a supplemental agreement, the executive director shall proceed with the determination of the question concerning representation. If the challenges are sufficient in number to affect the outcome, they shall be determined prior to the issuance of a certification. Otherwise, a conditional certification shall be issued which shall be amended upon final disposition of the issues framed in the supplemental agreement.

READOPTED SECTION (Readopting Order 88-02, filed 5/31/88)

WAC 391-25-290 NOTICE OF HEARING. After a petition has been filed, if it appears to the executive

director that there is reasonable cause to believe that a question concerning representation exists, there shall be issued and served on the employer and on all organizations listed in the petition and on any organization having theretofore intervened, a notice of hearing before a hearing officer at a time and place fixed therein. Any such notice of hearing may be amended or withdrawn before the close of the hearing.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-299 SPECIAL PROVISION—PRIVATE SECTOR EMPLOYEES. The commission lacks authority to proceed in representation disputes under chapter 49.08 RCW absent the agreement of all parties. The executive director shall not proceed in such matters unless an agreement is filed under WAC 391-25-230 or 391-25-250. WAC 391-25-290 through 391-25-390 shall not be applicable to proceedings under chapter 49.08 RCW except for hearings and issues submitted under WAC 391-25-270.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-310 HEARINGS—WHO SHALL CONDUCT. Hearings may be conducted by the commission, by the executive director, by a member of the agency staff or by any other individual designated by the commission or executive director as a hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

AMENDATORY SECTION (Amending Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-350 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be limited to matters concerning the determination of the existence of a question concerning representation, the appropriate bargaining unit and questions of eligibility. During the course of the hearing, the hearing officer may, upon motion by any party, or upon his or her own motion, sequester witnesses. It shall be the duty of the hearing officer to inquire fully into all matters in issue and to obtain a clear and complete factual record upon which the commission and the executive director may discharge their duties under the pertinent statutes and these rules.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-370 BLOCKING CHARGES—SUSPENSION OF PROCEEDINGS—REQUEST TO PROCEED. (1) Where representation proceedings have been commenced under this chapter and:

(a) A complaint charging unfair labor practices is filed under the provisions of chapter 391-45 WAC; and

(b) It appears that the facts as alleged may constitute an unfair labor practice; and

(c) Such unfair labor practice could improperly affect the outcome of a representation election; the executive

director may suspend the representation proceedings under this chapter pending the resolution of the unfair labor practice case.

(2) The complainant(s) in the unfair labor practice case may file a request to proceed, in writing, with the executive director. Such request to proceed shall identify, by case number, the representation proceedings for which it is made, shall request that those representation proceedings be continued notwithstanding the pending unfair labor practice case, and shall acknowledge that the commission will not entertain objections based on conduct alleged in the unfair labor practice case. Upon the filing of a request to proceed conforming to the foregoing requirements the executive director shall resume the processing of the representation petition and shall summarily dismiss any objections filed in conflict with the request to proceed.

(3) Where a complaint charging unfair labor practices is filed after the filing of an election agreement or issuance of a direction of election, the executive director shall proceed with the determination of the question concerning representation, subject to the right of any party to file objections as provided in WAC 391-25-590.

READOPTED SECTION (Readopting Order 88-02, filed 5/31/88)

WAC 391-25-390 PROCEEDINGS BEFORE THE EXECUTIVE DIRECTOR. The executive director may proceed forthwith upon the record, after submission of briefs or after hearing, as may be appropriate. The executive director shall determine whether a question concerning representation exists, and shall issue a direction of election, dismiss the petition or make other disposition of the matter. Unless otherwise provided in a direction of election, the cut-off date for eligibility to vote in an election shall be the date of issuance of the direction of election. Where the executive director determines that employee eligibility issues exist, the executive director may delegate authority to the hearing officer to decide those issues. Such actions shall be subject to review by the commission only as follows:

(1) Except for rulings as to whether the employer is subject to the jurisdiction of the commission, a direction of election and any accompanying rulings shall not be subject to review by the commission except upon objections timely filed under WAC 391-25-590.

(2) An order of dismissal shall be subject to review by the commission on its own motion or at the request of any party made within twenty days following the date of the order. Briefs or written arguments shall be submitted as provided in WAC 391-25-650. Unless the matter is transferred to the commission for review, an order of dismissal issued by the executive director shall have the same force and effect as if issued by the commission.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-391 SPECIAL PROVISION—PUBLIC EMPLOYEES. Where only one organization is seeking certification as the representative of unrepresented employees, and the showing of interest submitted

in support of the petition indicates that such organization has been authorized by a substantial majority of the employees to act as their representative for the purposes of collective bargaining, and the executive director finds that the conduct of an election would unnecessarily and unduly delay the determination of the question concerning representation with little likelihood of altering the outcome, the executive director may issue a direction of cross-check. The direction of cross-check and any accompanying rulings shall not be subject to review by the commission except upon objections timely filed under WAC 391-25-590.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-410 CROSS-CHECK OF RECORDS. Where a cross-check of records is to be conducted to determine a question concerning representation, the organization shall submit to the agency original individual cards or letters signed and dated by employees in the bargaining unit not more than ninety days prior to the filing of the petition and indicating that such employees authorize the named organization to represent them for the purposes of collective bargaining, or shall submit to the agency membership records maintained by the organization as a part of its business records containing the names of employees and indicating those employees currently members in good standing. The employer shall make available to the agency original employment records maintained as a part of its business records containing the names and signatures of the employees in the bargaining unit. Prior to the commencement of the cross-check, the organization may file a request that the question concerning representation be determined by a representation election and such requests shall be honored. Where the organization files a disclaimer or a request for election after the commencement of the cross-check, the cross-check shall be terminated and the organization shall not seek to be certified in the bargaining unit for a period of at least one year thereafter. All cross-checks shall be by actual comparison of records submitted by the parties. The agency shall not disclose the names of employees giving representation authorization in favor of or appearing on the membership rolls of the organization. Upon the conclusion of the comparison of records, the agency officer conducting the cross-check shall prepare and furnish to the parties a tally sheet containing the number of employees in the bargaining unit, the number of employee records examined and the number of employee records counted as valid evidence of representation.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-412 SPECIAL PROVISION—EDUCATIONAL EMPLOYEES. WAC 391-25-410 is inapplicable to petitions filed under chapter 41.59 RCW.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-413 SPECIAL PROVISION—ACADEMIC EMPLOYEES. WAC 391-25-410 is inapplicable to petitions filed under chapter 28B.52 RCW.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-430 NOTICE OF ELECTION. When an election is to be conducted, the agency shall furnish the employer with appropriate notices, and the employer shall post them in conspicuous places on its premises where notices to affected employees are usually posted. The notice shall contain:

- (1) The description of the bargaining unit or voting group(s) in which the election is to be conducted.
- (2) The date(s), hours and polling place(s) for the election.
- (3) The cut-off date, if any, or other criteria to be applied in establishing eligibility to vote in the election.
- (4) A statement of the purpose of the election and the question to be voted upon or a sample ballot.

Notices of the election shall be posted for at least seven days prior to the opening of the polls. In computing such period, the day of posting shall be counted, but the day on which the polls are opened shall not be counted. The reproduction of any document purporting to suggest, either directly or indirectly, that the agency endorses a particular choice may constitute grounds for setting aside an election upon objections properly filed.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-450 DISCLAIMERS. An organization may file a disclaimer and have its name removed from the ballot: PROVIDED, HOWEVER, That if such a disclaimer is filed after the issuance of a notice of election, the organization filing the disclaimer shall not seek to be certified in that bargaining unit for a period of at least one year thereafter.

READOPTED SECTION (Readopting Order 88-02, filed 5/31/88)

WAC 391-25-470 ELECTIONEERING. (1) Employers and organizations are prohibited from making election speeches on the employer's time to massed assemblies of employees:

(a) Within twenty-four hours before the scheduled time for the opening of the polls for an election conducted under "in person" voting procedures; or

(b) Within the period beginning with the issuance of ballots to employees for an election conducted under "mail ballot" voting procedures and the tally of ballots.

(2) There shall be no electioneering at or about the polling place during the hours of voting.

Violations of this rule shall be grounds for setting aside an election upon objections properly filed.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-490 ELECTION PROCEDURES—BALLOTTING. All elections shall be by secret ballot. Multiple questions, including unit determination elections, may be submitted to employees at the same time on separate ballots. Absentee balloting shall not be allowed. The agency may conduct elections by mail ballot when it appears that an election by "in person" procedures would result in undue delay, or would effectively deprive some eligible employees of their opportunity to vote. If mail balloting is used, the notice required by these rules shall be mailed to each eligible voter and no less than ten days shall be provided between the date on which ballot materials are mailed to eligible employees and the deadline for return of the ballots. Each party may be represented by observers of its own choosing, subject to such limitations as the executive director may prescribe: **PROVIDED, HOWEVER,** That no management official having authority over bargaining unit employees nor any officer or paid employee of an organization shall serve as observer.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-510 CHALLENGED BALLOTS. Any observer or the election officer may challenge, for good cause, the eligibility of any person seeking to cast a ballot in the election. No person shall be denied the right to cast a challenged ballot. The election officer shall not have authority to resolve challenges at the polls, and the ballot of the challenged voter shall be placed in a sealed envelope identifying the voter and the observer or election officer challenging the eligibility of the voter. The ballot shall not be opened until the challenge is resolved. Any party may withdraw a challenge previously made and, unless the eligibility of the voter is challenged by another party or by the election officer, the challenge shall thereby be resolved. If the challenged ballots are insufficient in number to affect the results of the election, they shall be impounded and no ruling shall be made thereon. If the challenged ballots are sufficient in number to affect the results of the election, the election officer shall, after the close of the polls, ascertain the position of each party as to each challenged ballot and shall include such information in his report. If challenges raise material questions of fact which cannot be resolved without a hearing, there shall be issued and served on each of the parties a notice of hearing before a hearing officer. The rules relating to the conduct of hearings on petitions shall govern hearings on challenges, except that the scope of the hearing shall be limited to matters relevant to the disposition of the challenged ballots. The executive director shall have authority to rule on all challenges except those made by a party to preserve an objection to a ruling previously made by the executive director as to the eligibility of the challenged voter. If challenges of a type excepted from the authority of the executive director are sufficient in number to affect the results of the election, the matter shall be transferred to

the commission for its determination under the provisions of WAC 391-25-670.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-530 VOTES NEEDED TO DETERMINE ELECTION. (1) Unit determination elections shall be decided by a majority of those eligible to vote in the election.

(2) Representation elections shall be decided by a majority of those voting. Where there are only two choices on the ballot, a tie vote shall result in a certification of no representative.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-531 SPECIAL PROVISION—PUBLIC EMPLOYEES. Where there are three or more choices on the ballot, representation elections shall be decided by a majority of those eligible to vote in the election.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-550 TALLY SHEET. Upon closing the polls, the election officer shall prepare and furnish to each of the parties a tally of the votes cast on unchallenged ballots and the number of challenged ballots. After the subsequent resolution of challenged ballots affecting the results of the election, a revised tally shall be issued and furnished to the parties. The tally shall indicate whether the results of the election were conclusive or inconclusive.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-570 PROCEDURE FOLLOWING INCONCLUSIVE ELECTION. In any election in which there are more than two choices on the ballot, if none of the choices receives the number of votes necessary to determine the election, a run-off election shall be held providing for selection between the two choices receiving the largest numbers of valid ballots cast in the inconclusive election. Any organization to be excluded from a run-off election may file objections to specific conduct affecting the results of the inconclusive election. Where the choice of "no representative" is to be excluded from a run-off election, the employer or decertification petitioner may file objections to specific conduct affecting the results of the inconclusive election. Such objections shall be resolved prior to the conduct of a run-off election. All run-off elections shall be determined as provided in WAC 391-25-530.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-590 FILING AND SERVICE OF OBJECTIONS. Within seven days after the tally has been served under WAC 391-25-410 or under WAC

391-25-550, any party may file objections with the commission. Objections may consist of:

(1) Designation of specific conduct improperly affecting the results of the election, by violation of these rules, by the use of deceptive campaign practices improperly involving the commission and its processes, by the use of forged documents, or by coercion or intimidation of or threat of reprisal or promise of reward to eligible voters, and/or

(2) Designation of one or more previous rulings or directions in the matter which the objecting party desires to have reviewed by the commission.

Objections shall contain, in separate numbered paragraphs, statements of the specific conduct, if any, alleged to have improperly affected the results of the election and, in separate numbered paragraphs, the specific rulings or directions, if any, which the party filing the objections desires to have reviewed. The original and three copies of the objections shall be filed with the commission at its Olympia office, and the party filing the objections shall serve a copy on each of the other parties to the proceedings. Objections must be timely filed, whether or not challenged ballots are sufficient in number to affect the results of the election.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-610 PROCEDURE WHERE NO OBJECTIONS ARE FILED. If no objections are filed within the time set forth above, and if any challenged ballots are insufficient in number to affect the determination of the question concerning representation, and if no run-off election is to be held, the executive director shall forthwith certify the results of the proceedings, with the same force and effect as if issued by the commission. The proceedings will thereupon be closed.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-630 PROCEDURE WHERE OBJECTIONS ARE FILED. (1) Objections to conduct improperly affecting the results of an election shall be referred to the executive director for investigation. If the objections raise material questions of fact which cannot be resolved without a hearing, there shall be issued and served on each of the parties a notice of hearing before a hearing officer. Hearings on objections to conduct affecting the results of an election may be consolidated with hearings on challenged ballots in the same proceeding. The rules relating to the conduct of hearings on petitions shall govern hearings on objections, except that the scope of the hearing shall be limited to matters relevant to the disposition of the objections.

(2) Objections to prior rulings and/or directions in the matter shall be referred directly to the commission.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-25-650 BRIEFS AND WRITTEN ARGUMENTS ON OBJECTIONS. All parties shall be

entitled to submit briefs or written arguments for consideration by the commission. The briefs or written arguments of all parties shall be due simultaneously, as follows:

(1) The deadline for the filing of briefs or written arguments shall be fourteen days following the later of:

(a) The close of an investigation under WAC 391-25-630(1);

(b) The issuance of a transcript of a hearing held under WAC 391-25-630(1); or

(c) The filing of objections under WAC 391-25-590(2).

(2) The commission, the executive director or the designee of the executive director may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established.

The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served on each of the other parties. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-670 COMMISSION ACTION ON OBJECTIONS. In all cases where objections have been filed, the entire record in the proceedings shall be transferred to the commission. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues in the matter. The commission shall determine the objections and any challenged ballots referred to the commission pursuant to WAC 391-25-510, and shall issue appropriate orders.

**WSR 89-24-026
EMERGENCY RULES
PUBLIC EMPLOYMENT
RELATIONS COMMISSION**
[Filed November 30, 1989, 11:02 a.m.]

Date of Adoption: November 15, 1989.

Purpose: Chapter 391-35 WAC is adopted to set forth complete procedures for the processing of unit clarification cases before the commission.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: RCW 41.58.050, 28B.52.080, 41.56.090 and 41.59.110.

Other Authority: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Rules adopted pursuant to chapter 34.05 RCW to harmonize with (where possible) or supplant (where necessary as described below) chapter 10-08 WAC as amended effective July 15, 1989. Readoption on an emergency basis is required because the chairman of the commission has resigned and a successor has not been appointed.

WAC 391-35-001 Scope—Contents—Other rules.

Purpose: Introduces chapter 391-35 WAC, makes cross-references to other rules.

Statute: Chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW (hereinafter: "substantive statutes"), generally.

Summary: Refers to other rules, as follows: Chapter 10-08 WAC for conduct of "adjudicative proceedings," generally; chapter 391-08 WAC for general procedural rules; chapter 391-25 WAC for representation cases; chapter 391-45 WAC for unfair labor practice cases; chapter 391-55 WAC for impasse resolution cases; chapter 391-65 WAC for grievance arbitration cases; and chapter 391-95 WAC for union security cases.

Reasons: RCW 34.05.250 permits agencies to adopt rules different from model rules by stating reasons for variance. WAC 10-08-001 is similar.

Explanation: Readoption of existing rule is necessary to identify the areas where PERC does things differently than chapter 10-08 WAC. Details of the interface between chapters 391-08 and 10-08 WAC are specified in WAC 391-08-001.

WAC 391-35-002 Sequence and numbering of rules—Special provisions.

Purpose: Descriptive only.

Statute: Substantive statutes, generally.

Summary: Explains how rules are numbered to identify exceptions to general rules.

Reasons: RCW 41.58.005(1) admonishes PERC to be "uniform" in the administration of state collective bargaining laws. This WAC chapter regulates proceedings under several different statutes under PERC's jurisdiction. Those statutes have many similarities and some differences.

Explanation: Readoption of existing rule is necessary to preserve a numbering scheme in which exceptions to general rules immediately follow the general rule on the same subject. (General rules applicable to all of the statutes under PERC's jurisdiction have WAC numbers divisible by ten; if a particular statute requires a deviation from the general rule, it receives a separate number in the same decile.)

WAC 391-35-010 Petition for clarification of an existing bargaining unit—Who may file.

Purpose: Specifies who may file a bargaining unit clarification petition with PERC.

Statute: Substantive statutes, generally.

Summary: Specifies that unit clarification petitions may be filed only by the employer or the incumbent exclusive bargaining representative of a bargaining unit.

Reasons: RCW 34.05.010(11) does not define who may file unit clarification petition. RCW 34.05.220

(1)(a) provides for agencies to adopt rules for processing of cases before the agency. Model rules silent with repeal of WAC 10-08-020.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes. The counterpart federal agency (National Labor Relations Board) and some counterpart agencies in other states mix unit clarification rules within their representation case rules, but the commission felt that was confusing. Hence a separate set of rules was adopted for unit clarification which parallel certain portions of the representation case rules in chapter 391-25 WAC.

WAC 391-35-020 Petition—Time for filing.

Purpose: Establishes time periods in which unit clarification petitions can be filed.

Statute: Substantive statutes, generally.

Summary: Provides that petitions dealing with claims of "confidentiality" or "changed circumstances" can be filed at any time. Other issues must first be raised in collective bargaining, and petition must be filed before a new collective bargaining agreement is signed.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.416 permits agency to determine when adjudicative proceeding will not be conducted. RCW 34.05.220(4) "encourages" agencies to codify legal principles enunciated in agency decisions as rules.

Explanation: Readoption of the existing rule continues substantive policy adopted in 1988 as a codification of the commission's decision in *Toppenish School District*, Decision 1143-A (PECB, 1981).

WAC 391-35-030 Petition form—Number of copies—Filing—Service.

Purpose: Specifies number of copies and filing of petition at Olympia office; requires service on other parties.

Statute: RCW 28B.52.080, 41.56.060 and 41.59.080.

Summary: Party initiating unit clarification case with PERC must file original and three copies with PERC's Olympia office, and must serve other parties.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 provides loosely for an "application for an adjudicative proceeding." WAC 10-08-110 would permit filing at "any" office of the agency.

Explanation: Readoption of existing rule is necessary to avoid claim of conflict with model rules. An original and three copies of documents are needed for circulation to the members of the commission in the event of intra-agency appeals. Filing at the Olympia office is necessary because PERC's Yakima and Spokane offices are not staffed on a full-time basis (making it difficult to ascertain compliance with "contract bar" and "certification bar" time limitations) and because all docketing and initial processing by the executive director are performed at Olympia.

WAC 391-35-050 Contents of petition.

Purpose: Specifies contents of unit clarification petition.

Statute: RCW 28B.52.080, 41.56.060 and 41.59.080.

Summary: Requires identifying information for agency docket records and for efficient processing by PERC. Requires petitioning party to identify positions at issue and basis for claim of unit inclusion or exclusion.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 is permissive as to the use of forms provided by an agency and provides loosely for an "application for an adjudicative proceeding" to specify the issue to be adjudicated in the proceeding.

Explanation: Readoption of existing rule is necessary to facilitate prompt agency response to unit clarification petitions, by requiring the details needed for case processing. Repeal of WAC 10-08-020 cast doubt on PERC's authority to require use of its forms under the model rules.

WAC 391-35-070 Amendment and withdrawal.

Purpose: Allows amendment and withdrawal of unit clarification petitions.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.080.

Summary: Petitioning party may withdraw or amend unit clarification petition under conditions that the executive director or commission may impose.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.060 encourages informal settlements. WAC 10-08-230 provides for informal settlements, but does not clearly cover amendments or withdrawals of petitions.

Explanation: Readoption of existing rule is necessary to avoid conflict with the model rules. The parties to unit clarification cases have ongoing relationships and are quite capable of drafting and signing their own settlement agreements, so that informal settlements are frequently communicated to PERC as a simple "amendment" or "withdrawal" of a case.

WAC 391-35-080 Prehearing conferences.

Purpose: To encourage settlements prior to investing state resources in a formal hearing.

Statute: RCW 28B.52.073, 41.56.040, 41.58.050 and 41.59.110.

Summary: Prehearing conferences may be conducted in unit clarification cases at the discretion of the hearing officer, to deal with both procedural and substantive matters.

Reasons: RCW 34.05.060 encourages informal settlements. RCW 34.05.431(1) requires agency to adopt rules specifying conditions and manner in which prehearing conferences are to be held. WAC 10-08-130 provides for conduct of prehearing conferences. WAC 10-08-230 provides for informal settlements, but imposes obligations on the agency which are not common on labor-management relations.

Explanation: Adoption of new rule is necessary to continue successful existing procedures and to meet the

requirements of the new APA. Since the parties have an ongoing relationship and usually have the issues clearly framed before the case comes to PERC, the commission uses "prehearing conferences" only occasionally in unit clarification cases, and then mostly to deal with "procedural" matters.

WAC 391-35-090 Notice of hearing.

Purpose: Explains procedure for determining whether to issue a notice of hearing in a unit clarification case.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.080.

Summary: Authorizes executive director to determine whether a notice of hearing will be issued in a unit clarification case. Specifies parties to whom notices of hearing are to be issued.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.434 sets out the type of information generally required in notices of hearing. WAC 10-08-040 prescribes specific rules as to the contents of the notice. RCW 34.05.416 provides for the disposition of cases where the agency concludes that no adjudicative proceeding should be conducted.

Explanation: Readoption of existing rule delegates substantive decision-making authority to the executive director, to conduct what amounts to an automatic "summary judgment" on the contents of the complaint, and does not conflict with the model rules.

WAC 391-35-099 Special provision—Private sector employees.

Purpose: Limits PERC authority to conduct unit clarification cases involving private sector employees.

Statute: Chapter 49.08 RCW.

Summary: PERC suspends processing of private sector unit clarification cases in absence of consent of all parties.

Reasons: PERC conducts representation and unit clarification proceedings in the private sector only as "arbitration" or "mediation" exercises under chapter 49.08 RCW, and then only by consent of all parties.

Explanation: Readoption of existing rule is necessary to continue substantive policy exempting private sector employees and employers from PERC unit clarification proceedings absent their mutual consent. No "small business" impact is anticipated, since no change is proposed. (Parties to which this rule applies may be subject to representation proceedings before the National Labor Relations Board under federal law.)

WAC 391-35-110 Consolidation of proceedings.

Purpose: Allows consolidation of simultaneous unit clarification and representation proceedings.

Statute: Substantive statutes, generally.

Summary: Permits consolidation of "bargaining unit description" issues into a single case, thereby saving agency resources and expediting final resolution of representation and clarification issues.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is necessary to effect efficiency where multiple parties seek to address the same or related issues through the separate, but similar, PERC procedures.

WAC 391-35-130 Hearings—Who shall conduct.

Purpose: Defines who may hear unit clarification cases.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.59.070, 41.59.080 and 53.18.015.

Summary: Hearing officer can be PERC staff member or agency designee. Hearing officers may be substituted.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-050 discusses the use of personnel supplied by the Office of Administrative Hearings, but PERC is exempt from the Office of Administrative Hearings and chapter 34.12 RCW.

Explanation: Readoption of existing rule is necessary because the "agency head" generally does not preside over PERC's adjudicative hearings. The chief administrative law judge does not govern the matters covered by this rule.

WAC 391-35-170 Hearings—Nature and scope.

Purpose: Defines unit clarification hearings as investigatory.

Statute: RCW 28B.52.080, 41.56.060, 41.59.080 and 53.18.015.

Summary: Defines the hearing as public and investigatory between parties, with agency taking impartial, but active, role.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.449(5) provides for hearings to be "public" but model rules are silent following repeal of language in WAC 10-08-190. In addition, the rule no longer speaks to sequestering of witnesses. Chapter 34.05 RCW and chapter 10-08 WAC are written to apply to "adjudicative proceedings" where the agency itself takes an advocacy role, and so do not adequately describe the "impartial" investigatory role of PERC in unit clarification hearings.

Explanation: Amendment of existing rule is necessary to define the impartial investigatory posture of PERC, while permitting the sequestering of witnesses. This will not conflict with the model rules' directives, and will maintain important components of PERC hearings.

WAC 391-35-190 Proceedings before the executive director.

Purpose: Delegates decision-making authority in unit clarification matters.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.080.

Summary: Delegates decision-making authority to executive director for initial decision on all unit clarification case issues. Permits delegation of certain types of issues to hearing officer.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency.

RCW 41.58.015(2) permits commission to delegate decision-making authority, subject to right of parties to petition for review by full commission.

Explanation: Readoption of the existing rule continues a well-accepted and efficient procedure. Unit clarification cases involve a limited number and type of issues, and consistency of agency policy is vital to the process of labor-management relations. The existing rule centralizes unit clarification case determinations, making the executive director responsible for overall consistency as well as the outcomes of individual cases.

WAC 391-35-210 Proceedings before the commission—Petition for review.

Purpose: Allows for intraagency review of an initial decision by the commission.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.080.

Summary: Within 20 days following the issuance of an initial decision, the parties may petition for intraagency review ("appeal") of the initial decision.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 specifies a 20-day period for all intra-agency appeals, but specifies a 10-day period for filing of appeal briefs.

Explanation: Readoption of existing rule is necessary to the efficient operation of PERC. The procedures and briefing schedules specified in the model rule are different from those established by PERC after actual experience with the types of issues encountered in labor-management relations.

WAC 391-35-230 Filing and service of cross-petition for review.

Purpose: Allows a party to file a cross-petition for review of an initial decision.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.080.

Summary: Allows an additional 7 days for the filing of a cross-petition for review.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 specifies a 20-day period for all intra-agency appeals, and does not contemplate cross-petitions for review.

Explanation: Readoption of existing rule is necessary to preserve a procedure that has worked well for PERC and its clientele up to this time. PERC adopted the "cross-petition" procedure to obviate the filing of "strategic" appeals that might otherwise be withheld.

WAC 391-35-250 Commission action.

Purpose: Requires the commission to make a determination of a decision that it reviews.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.080.

Summary: Transfers entire case to the commission when intraagency appeal procedures have been invoked. Permits commission to call for oral argument.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 does not deal with oral argument.

Explanation: Readoption of existing rule is necessary to specify agency action on appeals, consistent with RCW 34.05.464(1).

Effective Date of Rule: Immediately.

November 29, 1989
Marvin L. Schurke
Executive Director

AMENDATORY SECTION (Amending Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the public employment relations commission on petitions for clarification of existing bargaining units. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 391-35 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-35-050;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by WAC 391-35-210 and 391-35-230; and

(d) WAC 10-08-230, which is supplanted by WAC 391-35-070 and 391-35-140.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

((2))) (3) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

((3))) (4) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

((4))) (5) Chapter 391-55 WAC, which contains rules relating to resolution of impasses occurring in collective bargaining.

((5))) (6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

((6))) (7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

READOPTED SECTION (Readopting Order 83-03, filed 12/1/83, effective 1/1/84)

WAC 391-35-002 SEQUENCE AND NUMBERING OF RULES—SPECIAL PROVISIONS. This

chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule, numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (professional negotiations—academic faculties of community college districts) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 49.08 RCW (private sector employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-010 PETITION FOR CLARIFICATION OF AN EXISTING BARGAINING UNIT—WHO MAY FILE. In the absence of a question concerning representation, a petition for clarification of an existing bargaining unit may be filed by the employer, the exclusive representative or their agents, or by the parties jointly.

READOPTED SECTION (Readopting Order 88-03, filed 5/31/88)

WAC 391-35-020 PETITION—TIME FOR FILING. (1) Disputes concerning status as a "confidential employee" may be filed at any time.

(2) Except as provided in subsection (1) of this section, where there is a valid written and signed collective bargaining agreement in effect, a petition for clarification of the covered bargaining unit will be considered timely only if:

(a) The petitioner can demonstrate, by specific evidence, substantial changed circumstances during the term of the collective bargaining agreement which warrant a modification of the bargaining unit by inclusion or exclusion of a position or class; or

(b) The petitioner can demonstrate that, although it signed the current collective bargaining agreement covering the position or class at issue in the unit clarification proceedings, (i) it put the other party on notice during negotiations that it would contest the inclusion or exclusion of the position or class via the unit clarification procedure, and (ii) it filed the petition for clarification of the existing bargaining unit prior to signing the current collective bargaining agreement.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-030 PETITION FORM—NUMBER OF COPIES—FILING—SERVICE. Each petition for clarification of an existing bargaining unit shall be prepared on a form furnished by the commission or shall be prepared in conformance with WAC 391-35-050. The original and three copies of the petition shall be filed with the agency at its Olympia office. If the petition is filed other than as a jointly filed petition, the party filing the petition shall serve a copy on the other party to the collective bargaining relationship in which the disagreement arises.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-050 CONTENTS OF PETITION. Each petition for clarification of an existing bargaining unit shall contain:

(1) The name and address of the employer and the name, address and telephone number of the employer's principal representative for the purposes of collective bargaining.

(2) The name, address and affiliation, if any, of the exclusive representative, and the name, address and telephone number of its principal representative.

(3) The description of the existing bargaining unit, specifying inclusions and exclusions and the number of employees in such bargaining unit.

(4) Identification of the proceeding in which any certification of representatives was issued or the date of the recognition agreement, and the history of any modifications of the bargaining unit subsequent thereto.

(5) A description of the proposed clarification, including the position(s), classification(s) or group(s) in issue, the number of employees in each such position, classification or group, the present bargaining unit inclusion or exclusion status of each such position, classification or group and identification of the party proposing that the present status be changed.

(6) The names and addresses of any other employee organizations claiming to represent any employees affected by the proposed clarification(s), and brief description(s) of the contracts, if any, covering such employees.

(7) A statement of the reasons for the proposed clarification.

(8) Any other relevant facts.

(9) The signature(s) and, if any, the title(s) of the representative(s) of the petitioner(s).

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-070 AMENDMENT AND WITHDRAWAL. Any petition may be amended or withdrawn by the petitioner(s) under such conditions as the executive director or the commission may impose.

NEW SECTION

WAC 391-35-080 PREHEARING CONFERENCES. The hearing officer has discretion to conduct a prehearing conference to discuss with the parties all issues of law, fact, and procedure which may arise in unit clarification cases. The parties are encouraged to reach binding stipulations on such matters during the course of the prehearing conference.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-090 NOTICE OF HEARING. After a petition for clarification of an existing bargaining unit has been filed, if it appears to the executive director that a disagreement exists which might appropriately be the subject of an order clarifying an existing bargaining unit, there shall be issued and served on the employer and on the exclusive representative a notice of hearing before a hearing officer at a time and place fixed therein. Any such notice may be amended or withdrawn prior to the close of the hearing.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-099 SPECIAL PROVISION—PRIVATE SECTOR EMPLOYEES. The commission lacks authority to proceed in unit clarification proceedings under chapter 49.08 RCW absent the agreement of all parties. The executive director shall not proceed in such matters unless a written agreement is filed by the parties to submit their dispute for arbitration by the commission under chapter 49.08 RCW and these rules.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-110 CONSOLIDATION OF PROCEEDINGS. If a proceeding initiated by a petition for clarification under WAC 391-35-010 is pending at the same time as a proceeding involving all or any part of the same bargaining unit initiated by a petition for investigation of a question concerning representation filed pursuant to WAC 391-25-010, the proceedings shall be consolidated and all issues concerning the description of the bargaining unit shall be resolved in the consolidated proceedings.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-130 HEARINGS—WHO SHALL CONDUCT. Hearings may be conducted by the commission, by the executive director, by a member of the agency staff or by any other individual designated by the commission or executive director as a hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

AMENDATORY SECTION (Amending Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-170 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be limited to

matters concerning the determination of the petition for clarification of an existing bargaining unit. During the course of the hearing, the hearing officer may, upon motion by any party, or upon his or her own motion, sequester witnesses. It shall be the duty of the hearing officer to inquire fully into all matters in issue and to obtain a full and complete factual record upon which the commission or the executive director may discharge their duties under the pertinent statutes and these rules.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-35-190 PROCEEDINGS BEFORE THE EXECUTIVE DIRECTOR. The executive director may proceed forthwith upon the record, after submission of briefs or after hearing, as may be appropriate. The executive director shall determine the status of each position, classification or group of employees over which there is a disagreement and issue an order clarifying bargaining unit, dismiss the petition or make other disposition of the matter. Where the executive director determines that employee eligibility issues exist, the executive director may delegate authority to the hearing officer to decide those issues.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

—**WAC 391-35-210 PROCEEDINGS BEFORE THE COMMISSION—PETITION FOR REVIEW.** The final order of the executive director shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days after the date of the order. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on any other parties. The petition for review shall identify the actions or rulings claimed to be in error. Any party to the proceeding may, within fourteen days after the filing of the petition for review, file briefs or written arguments for consideration by the commission. The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served on the other party. The commission, the executive director or the designee of the executive director may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-230 FILING AND SERVICE OF CROSS-PETITION FOR REVIEW. Where a petition for review has been timely filed under WAC 391-35-

210, any party who has not previously filed a petition for review may, within seven days after the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition for review shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadline for the submission of briefs or written arguments shall be extended by seven days.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-250 COMMISSION ACTION. The executive director shall transfer the entire record in the proceeding to the commission. The commission shall determine the status of each position, classification or group covered by the petition for review, and shall issue appropriate orders.

**WSR 89-24-027
EMERGENCY RULES
PUBLIC EMPLOYMENT
RELATIONS COMMISSION**

[Filed November 30, 1989, 11:05 a.m.]

Date of Adoption: November 15, 1989.

Purpose: Chapter 391-45 WAC is adopted to set forth complete procedures for the processing of unfair labor practice cases before the commission.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: RCW 41.58.050, 28B.52.080, 41.56.090 and 41.59.110.

Other Authority: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Rules adopted pursuant to chapter 34.05 RCW to harmonize with (where possible) or supplant (where necessary as described below) chapter 10-08 WAC as amended effective July 15, 1989. Readoption on an emergency basis is required because the chairman of the commission has resigned and a successor has not been appointed.

WAC 391-45-001 Scope—Contents—Other rules.

Purpose: Identifies chapter, makes cross-references to other rules.

Statute: Chapters 28B.52, 41.56, 41.58, 41.59 and 53-18 RCW (hereinafter: "substantive statutes"), generally.

Summary: Refers to other rules, as follows: Chapter 10-08 WAC for conduct of "adjudicative proceedings", generally; chapter 391-08 WAC for general procedural rules; chapter 391-25 WAC for representation cases; chapter 391-35 WAC for unit clarification cases; chapter 391-55 WAC for impasse resolution cases; chapter

391-65 WAC for grievance arbitration cases; and chapter 391-95 WAC for union security cases.

Reasons: RCW 34.05.250 permits agencies to adopt rules different from model rules by stating reasons for variance. WAC 10-08-001 is similar.

Explanation: Amendment of existing rule to identify the areas where PERC does things differently than chapter 10-08 WAC. Details of the interface between chapters 391-08 and 10-08 WAC are specified in WAC 391-08-001.

WAC 391-45-002 Sequence and numbering of rules—Special provisions.

Purpose: Explanatory only.

Statute: Substantive statutes, generally.

Summary: Explains how rules are numbered to identify exceptions to general rules.

Reasons: RCW 41.58.005(1) admonishes PERC to be "uniform" in the administration of state collective bargaining laws. This WAC chapter regulates proceedings under several different statutes under PERC's jurisdiction. Those statutes have many similarities and some differences.

Explanation: Readoption of existing rule is necessary to preserve a numbering scheme in which exceptions to general rules immediately follow the general rule on the same subject. (General rules applicable to all of the statutes under PERC's jurisdiction have WAC numbers divisible by ten; if a particular statute requires a deviation from the general rule, it receives a separate number in the same decile.)

WAC 391-45-010 Complaint charging unfair labor practice—Who may file.

Purpose: Defines who may be a complainant.

Statute: RCW 28B.52.065, 41.56.040, 41.58.040, 41.59.060 and 53.18.015.

Summary: Defines "complainant" to include any employee, group of employees, employee organization, employer or their agents.

Reasons: RCW 34.05.010(11) does not define who may file a complaint charging unfair labor practices. RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Model rules silent with repeal of WAC 10-08-020.

Explanation: Readoption of existing rule to insure that standing to file a complaint charging unfair labor practices will not be artificially limited.

WAC 391-45-019 Special provision—Private sector employees.

Purpose: Excludes private sector employees and employers from the coverage of chapter 391-45 WAC.

Statute: RCW 49.08.020.

Summary: Provides that unfair labor practice procedures are not applicable to private sector employees and employers.

Reasons: Chapter 49.08 RCW does not allow unfair labor practices to be filed by private sector parties at the state level.

Explanation: Readoption of existing rule to exempt private sector employees and employers from unfair labor practice proceedings before PERC.

No "small business" impact is anticipated, since no change is proposed. (Parties to which this rule applies may be subject to unfair labor practice proceedings before the National Labor Relations Board under federal law.)

WAC 391-45-030 Form—Number of copies—Filing—Service.

Purpose: Specifies number of copies and filing of complaints at Olympia office; requires service on other parties.

Statute: RCW 28B.52.073, 41.56.170, 41.59.150 and 53.18.015.

Summary: The party initiating an unfair labor practice case must file an original and three copies with PERC's Olympia office and must serve the respondent(s).

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 provides loosely for an "application for an adjudicative proceeding." WAC 10-08-110 would permit filing at "any" office of the agency.

Explanation: Readoption of existing rule to avoid any claim of conflict with model rules. An original and three copies of documents are needed for circulation to the members of the commission in the event of intraagency appeals. Filing at the Olympia office is necessary because PERC's Yakima and Spokane offices are not staffed on a full-time basis (making it difficult to ascertain the time of "filing" for purpose of administering a six-month "statute of limitations") and because all docketing and initial processing by the executive director are performed at the Olympia office.

WAC 391-45-050 Contents of complaint charging unfair labor practices.

Purpose: Details information to be included in a complaint charging unfair labor practices.

Statute: RCW 28B.52.073, 41.56.170, 41.56.180, 41.59.150 and 53.18.015.

Summary: Requires identifying information for agency docket records and detailed statement of alleged facts for efficient processing by PERC.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 provides loosely for an "application for an adjudicative proceeding" to specify the issue to be adjudicated in the proceeding.

Explanation: Readoption of existing rule to avoid conflict with model rules at WAC 10-08-035 and to obtain details needed by PERC for the efficient processing of cases.

WAC 391-45-070 Amendment.

Purpose: Defines how complaints of unfair labor practices can be amended.

Statute: RCW 28B.52.073, 41.56.140, 41.56.150, 41.56.170, 41.59.140 and 53.18.015.

Summary: Complaints may be amended by motion of the complainant.

Reasons: Chapter 10-08 WAC does not clearly cover amendments to complaints.

Explanation: Readoption of existing rule, because amendments to complaints are allowed by the applicable substantive statutes.

WAC 391-45-090 Withdrawal.

Purpose: Defines how unfair labor practices complaints can be withdrawn.

Statute: RCW 28B.52.073, 41.56.140, 41.56.150, 41.59.140 and 53.18.015.

Summary: Complaints can be withdrawn under conditions established by the agency.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.060 encourages informal settlements. WAC 10-08-230 provides for informal settlements, but does not clearly cover withdrawals of complaints.

Explanation: Readoption of existing rule to avoid conflict with the model rules. Most parties to unfair labor practice cases have ongoing relationships and are quite capable of drafting and signing their own settlement agreements, so that informal settlements are frequently communicated to PERC as a simple "withdrawal" of a case.

WAC 391-45-110 Initial processing by executive director.

Purpose: Requires review of complaints to determine whether they state a cause of action.

Statute: RCW 28B.52.073, 41.56.140, 41.56.150, 41.59.140 and 53.18.015.

Summary: Assuming all of the facts alleged in the complaint to be true and provable, the executive director determines whether, as a matter of law, an unfair labor practice violation could be found. If not, the complaint is dismissed by written order.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.416 provides for the disposition of cases where the agency concludes that no adjudicative proceeding should be conducted. This rule delegates substantive decision-making authority to the executive director, to conduct what amounts to an automatic "summary judgment" on the contents of the complaint.

Explanation: Readoption of existing rule to insure that invalid complaints are dismissed at the earliest opportunity, with minimum investment of state resources, and that legitimate cases are sent to hearing.

WAC 391-45-130 Examiner—Who may act.

Purpose: Defines who may hear the complaints.

Statute: RCW 28B.52.073, 41.56.160, 41.56.170, 41.59.110 and 53.18.015.

Summary: Examiner can be PERC staff member or agency designee; with notice, examiners can be substituted.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-050 discusses the use of personnel supplied

by the Office of Administrative Hearings, but PERC is exempt from the Office of Administrative Hearings and chapter 34.12 RCW.

Explanation: Readoption of existing rule because the "agency head" generally does not preside over PERC's adjudicative hearings. The chief administrative law judge does not govern the matters covered by this rule.

WAC 391-45-170 Notice of ((hearing)) right to answer.

Purpose: Defines rights concerning filing of answer.

Statute: RCW 28B.52.073, 41.56.170, 41.59.150 and 53.18.015.

Summary: Requires notice of hearing to provide for the date for filing an answer, and allows amendment of the notice.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-040 regulates the contents of the notice of hearing, other than the requirement for an answer.

Explanation: Amendment of existing rule title because the right to answer is secured by the substantive statutes administered by PERC.

WAC 391-45-190 Answer—Filing—Service.

Purpose: Specifies procedures for filing of answer to complaint charging unfair labor practices.

Statute: RCW 28B.52.073, 41.56.170, 41.59.150 and 53.18.015.

Summary: The respondent must file the original and three copies of its answer by the date listed on the notice of hearing, and must serve the opposing party.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-040 regulates the contents of the notice of hearing, other than the requirement for an answer.

Explanation: Readoption of existing rule to avoid claim of conflict with model rules. An original and three copies of documents are needed for circulation to the members of the commission in the event of intraagency appeals.

WAC 391-45-210 Answer—Contents and effect of failure to answer.

Purpose: Details required contents for answer and consequences of failure to answer.

Statute: RCW 28B.52.073, 41.56.170, 41.59.150 and 53.18.015.

Summary: Answer must respond specifically to allegations of complaint; if not, facts alleged in complaint are generally admitted.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 34.05 RCW and chapter 10-08 WAC are silent on effects of failure to file answer.

Explanation: Readoption of existing rule because the "answer" is required by substantive statutes administered by PERC.

WAC 391-45-230 Amendment of answer.

Purpose: Allows for answers to be amended.

Statute: RCW 28B.52.073, 41.56.170, 41.59.150 and 53.18.015.

Summary: Answer may be amended when complaint is amended, or upon proper motion.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 34.05 RCW and chapter 10-08 WAC are silent on effects of failure to file answer.

Explanation: Readoption of existing rule because the "answer" is required by substantive statutes administered by PERC.

WAC 391-45-250 Motion to make complaint more definite and certain.

Purpose: Allows a respondent to obtain sufficient information to enable it to prepare its answer.

Statute: RCW 28B.52.073, 41.56.170, 41.59.150 and 53.18.015.

Summary: The respondent may move for more details to be supplied by the complaining party. The examiner is authorized to rule on such motions.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 provides loosely for an "application for an adjudicative proceeding" to specify the issue to be adjudicated in the proceeding. WAC 391-45-050 requires more detailed information than model rule.

Explanation: Readoption of existing rule because this is the first opportunity the respondent has to respond to the complaint. (The executive director makes the preliminary ruling under WAC 391-45-110 without input from the respondent.)

WAC 391-45-260 Settlement conference—Prehearing conference.

Purpose: To encourage settlements prior to investing state resources in a formal hearing.

Statute: RCW 28B.52.073, 41.56.160, 41.59.150 and 53.18.015.

Summary: A member of the commission staff (other than the assigned examiner) may request the parties attend a voluntary "settlement conference," to examine the facts and legal theories presented along with case precedent. Whether or not a "settlement conference" has been held, the examiner may hold a "prehearing conference" to deal with procedural matters related to the hearing.

Reasons: RCW 34.05.060 encourages informal settlements. RCW 34.05.431(1) requires agency to adopt rules specifying conditions and manner in which pre-hearing conferences are to be held. WAC 10-08-130 provides for conduct of prehearing conferences. WAC 10-08-230 provides for informal settlements, but imposes obligations on the agency which are not common on labor-management relations.

Explanation: Amendment of existing rule to continue a successful procedure and to meet the requirements of the new APA. The "settlement conference" procedure was developed by PERC based on experience in the field, and has been a successful method in many cases. PERC

uses conventional "prehearing conferences" from time to time where the pleadings and prehearing motions indicate that it would be appropriate to do so.

WAC 391-45-270 Hearings—Nature and scope.

Purpose: Defines unfair labor practice hearings as adversarial.

Statute: RCW 28B.52.073, 41.56.170, 41.59.150 and 53.18.015.

Summary: Defines the hearing as public and adversarial between parties, with agency impartial. Places the burden of proof on the complainant.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 34.05 RCW and chapter 10-08 WAC are written to apply to "adjudicative proceedings" where the agency itself takes an advocacy role, and so do not adequately describe the "impartial" role of PERC in unfair labor practice hearings.

Explanation: Amendment of existing rule to clearly define the impartial posture of PERC, to allow for the sequestering of witnesses and to assign the burden of proof.

WAC 391-45-290 Briefs and proposed findings.

Purpose: Allows filing of written legal argument.

Statute: RCW 28B.52.073, 41.56.180, 41.59.150 and 53.18.015.

Summary: On their own volition, or at the direction of the examiner, the parties to an unfair labor practice may file written legal argument in support of their position.

Reasons: RCW 34.05.461(7) provides for the filing of briefs and proposed findings. RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is convenient, so that the parties who are already dealing with a substantive statute and three sets of rules (chapters 10-08, 391-08 and 391-45 WAC) will not need to refer to the APA for this fairly obscure provision.

WAC 391-45-310 Examiner decision.

Purpose: Empowers examiner to issue initial findings of fact, conclusions of law and an order.

Statute: RCW 28B.52.073, 41.56.180, 41.59.150 and 53.18.015.

Summary: After the close of the hearing, the examiner is to issue findings of facts, conclusions of law and an order.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.461 regulates form and contents of initial order.

Explanation: Readoption of existing rule to delegate substantive decision-making authority to the examiner for the initial decision. The commission is a reviewing body in unfair labor practice proceedings.

WAC 391-45-330 Withdrawal or modification of examiner decision.

Purpose: Allows examiner to modify the decision upon discovery of a mistake or new evidence.

Statute: RCW 28B.52.073, 41.56.180, 41.59.150 and 53.18.015.

Summary: Within 20 days following the issuance of a decision (i.e., prior to the expiration of the time for filing a petition for intraagency review), the examiner can withdraw or modify the decision if a mistake is discovered, or newly-discovered evidence is claimed.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.461 regulates form and contents of initial order.

Explanation: Readoption of existing rule to delegate substantive decision-making authority to the examiner to continue to act under these limited circumstances. The commission is a reviewing body in unfair labor practice proceedings.

WAC 391-45-350 Petition for review of examiner decision.

Purpose: Allows for intraagency review of an examiner's decision by the commission.

Statute: RCW 28B.52.073, 41.56.180, 41.59.150 and 53.18.015.

Summary: Within 20 days following the issuance of an examiner's decision, the parties may petition for intraagency review ("appeal") of the examiner's decision. The commission may "lift" a case for review on its own motion within 30 days following the issuance of the examiner's decision.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 specifies a 20-day period for all intra-agency appeals, does not contemplate review on motion of the commission, and specifies a 10-day period for filing of appeal briefs.

Explanation: Readoption of existing rule is necessary to the efficient operation of PERC. The procedures and briefing schedules specified in the model rule are different from those established by PERC after actual experience with the types of issues encountered in labor-management relations. The commission needs the authority to review a decision on its own motion, where an evident defect or order contrary to commission policy would otherwise be left standing by action or omission of the parties.

WAC 391-45-370 Filing and service of cross-petition for review.

Purpose: Allows a party to file a cross-petition for review of an examiner's decision.

Statute: RCW 28B.52.073, 41.56.180, 41.59.150 and 53.18.015.

Summary: Allows an additional 7 days for the filing of a cross-petition for review.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 specifies a 20-day period for all intra-agency appeals, and does not contemplate cross-petitions for review.

Explanation: Readoption of existing rule is necessary to preserve a procedure that has worked well for PERC and its clientele up to this time. PERC adopted the

"cross-petition" procedure to obviate the filing of "strategic" appeals that might otherwise be withheld.

WAC 391-45-390 Commission action.

Purpose: Requires the commission to make a determination of a decision that it reviews.

Statute: RCW 28B.52.073, 41.56.180, 41.59.150 and 53.18.015.

Summary: Transfers entire case to the commission when intraagency appeal procedures have been invoked. Permits commission to call for oral argument.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 does not deal with oral argument.

Explanation: Readoption of existing rule is necessary to specify agency action on appeals, consistent with RCW 34.05.464(1).

WAC 391-45-410 Unfair labor practice remedies.

Purpose: Allows a remedial order to be issued if an unfair labor practice is found to have been committed.

Statute: RCW 28B.52.073, 41.56.160, 41.59.150 and 53.18.015.

Summary: If an unfair labor practice is found, a remedial order will be issued. Details formula to use if back pay is involved.

Reasons: Substantive rule implementing remedial powers conferred on commission by chapters 28B.52, 41.56 and 41.59 RCW.

Explanation: Readoption of existing rule is necessary to preserve substantive requirements drawn from statutes or agency policy and expertise.

WAC 391-45-430 Motion for temporary relief.

Purpose: Allows the commission to issue an injunction in certain unfair labor practice situations.

Statute: RCW 28B.52.073 and 41.59.150.

Summary: The commission may seek court intervention to preserve the status quo pending the completion of unfair labor practice proceedings, if the complainant would have no adequate remedy and would suffer irreparable harm if it had to wait for completion of the administrative adjudication process. Procedures for filing of motion and for response are specified.

Reasons: RCW 34.05.578(4) provides for agency to seek temporary relief. Chapter 10-08 WAC is silent. RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency.

Explanation: Readoption of existing rule to preserve special procedures drawn from agency expertise and substantive statutes administered by PERC. Temporary relief has been rarely used, but has been effective in most cases where invoked.

WAC 391-45-431 Special provision—Public employees.

Purpose: Makes WAC 391-45-430 temporary relief procedures inapplicable to parties under chapter 41.56 RCW.

Statute: RCW 41.56.190.

Summary: Parties to cases under chapter 41.56 RCW are precluded from using the temporary relief procedure through PERC.

Reasons: RCW 34.05.578(4) provides for agency to seek temporary relief. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule will continue the traditional exclusion from "temporary relief" based on the language of RCW 41.56.190 (which has been interpreted as limiting the authority of the commission to seek judicial relief until 30 days had passed after the issuance of the final agency "order").

RCW 34.04.578 [34.05.578] is a separate source of authority for the agency to seek temporary relief within 30 days after its "order" is issued, but falls short of a general authorization to seek an injunction.

WAC 391-45-550 Collective bargaining—Policy.

Purpose: Promotes bilateral collective bargaining.

Statute: RCW 28B.52.073, 41.56.030(4), 41.59.020(2) and 53.18.015.

Summary: Parties may bring any subject to the bargaining table; the commission exclusively determines whether a subject is a mandatory or permissive subject of bargaining.

Reasons: APA is silent.

Explanation: Readoption of existing rule to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from agency expertise and the statutes it administers.

WAC 391-45-552 Special provision—Educational employees.

Purpose: Promotes good faith collective bargaining.

Statute: RCW 41.59.110 and 41.59.120.

Summary: Requires parties to submit written proposals and to give justifications while bargaining, and to use mediation and fact finding procedures to resolve disputes.

Reasons: APA is silent.

Explanation: Readoption of existing rule to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from agency expertise and the statutes it administers.

Effective Date of Rule: Immediately.

November 29, 1989

Marvin L. Schurke
Executive Director

AMENDATORY SECTION (Amending Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the public employment relations commission on complaints charging unfair labor practices. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC, which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 391-45, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-45-050;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by WAC 391-45-350 and 391-45-370; and

(d) WAC 10-08-230, which is supplanted by WAC 391-45-070, 391-45-090, and 391-45-260.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

((2)) (3) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

((3)) (4) Chapter 391-35 WAC, which contains rules relating to petitions for clarification of existing bargaining units.

((4)) (5) Chapter 391-55 WAC, which contains rules relating to resolution of impasses occurring in collective bargaining.

((5)) (6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

((6)) (7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

READOPTED SECTION (Readopting Order 83-04, filed 12/1/83, effective 1/1/84)

WAC 391-45-002 SEQUENCE AND NUMBERING OF RULES—SPECIAL PROVISIONS. This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule, numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (professional negotiations—academic faculties of community college districts) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 49.08 RCW (private sector employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-010 COMPLAINT CHARGING UNFAIR LABOR PRACTICES—WHO MAY FILE. A complaint charging that any person has engaged in or is engaging in an unfair labor practice, hereinafter referred to as a "complaint" may be filed by any employee, group of employees, employee organization, employer or their agents.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-019 SPECIAL PROVISION—PRIVATE SECTOR EMPLOYEES. The provisions of chapter 391-45 WAC are inapplicable to private sector collective bargaining under chapter 49.08 RCW.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-030 FORM—NUMBER OF COPIES—FILING—SERVICE. Charges shall be in writing, in the form of a complaint of unfair labor practices. The original and three copies shall be filed with the agency at its Olympia office. The party filing the complaint shall serve a copy on each party named as a respondent.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-050 CONTENTS OF COMPLAINT CHARGING UNFAIR LABOR PRACTICES. Each complaint shall contain, in separate numbered paragraphs:

(1) The name and address of the party filing the complaint, hereinafter referred to as the complainant, and the name, address and telephone number of its principal representative.

(2) The name(s) and address(es) of the person(s) charged with engaging in, or having engaged in, unfair labor practices, hereinafter referred to as the respondent(s), and, if known, the names, addresses and telephone numbers of the principal representatives of the respondent(s).

(3) Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences.

(4) A listing of the sections of the Revised Code of Washington (RCW) alleged to have been violated.

(5) A statement of the relief sought by the complainant.

(6) The signature and, if any, the title of the person filing the complaint.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-070 AMENDMENT. Any complaint may be amended upon motion made by the complainant to the executive director or the examiner prior to the transfer of the case to the commission.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-090 WITHDRAWAL. Any complaint may be withdrawn by the complainant under such conditions as the executive director or the commission may impose.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-110 INITIAL PROCESSING BY EXECUTIVE DIRECTOR. The executive director shall determine whether the facts as alleged may constitute an unfair labor practice within the meaning of the applicable statute. If it is determined that the facts as alleged do not, as a matter of law, constitute a violation, the executive director shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor; otherwise, the executive director shall cause the contents of the charge to be issued and served as a complaint of unfair labor practices, shall assign the matter to an examiner and shall notify the parties of such assignment. An order of dismissal issued pursuant to this section shall be subject to a petition for review as provided in WAC 391-45-350.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-130 EXAMINER—WHO MAY ACT. The examiner may be a member of the agency staff or any other individual designated by the commission or executive director. Upon notice to all parties, an examiner may be substituted for the examiner previously presiding.

AMENDATORY SECTION (Amending Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-170 NOTICE OF ((HEARING)) RIGHT TO ANSWER. The examiner shall issue and cause to be served on the parties a notice of hearing at a time and place specified therein. Attached to the notice of hearing shall be a copy of the complaint as approved by the executive director under WAC 391-45-110. The notice of hearing shall specify the date for the filing of an answer, which shall be not less than ten days prior to the date set for hearing. Any such notice of hearing may be amended or withdrawn before the close of the hearing.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-190 ANSWER—FILING AND SERVICE. The respondent(s) shall, on or before the date specified therefor in the notice of hearing, file with the examiner the original and three copies of its answer to the complaint, and shall serve a copy on the complainant.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-210 ANSWER—CONTENTS AND EFFECT OF FAILURE TO ANSWER. An answer filed by a respondent shall specifically admit, deny or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. The failure of a respondent to file an answer or the failure to specifically deny or explain in the answer a fact alleged in the complaint shall, except for good cause shown, be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of the respondent of a hearing as to the facts so admitted.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-230 AMENDMENT OF ANSWER. The respondent may amend its answer at any time prior to the hearing. During the hearing or subsequent thereto, it may amend its answer in any case where the complaint has been amended, within such period as may be fixed by the examiner or the commission. Whether or not the complaint has been amended, the answer may, in the discretion of the examiner or the commission, be amended upon motion under such terms and within such period as may be fixed by the examiner or the commission.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-250 MOTION TO MAKE COMPLAINT MORE DEFINITE AND CERTAIN. If a complaint is alleged by a respondent to be so indefinite as to hamper the respondent in the preparation of its answer, such respondent may, on or before the date specified for the filing of an answer, file a motion requesting an order directing that the complaint be made more definite and certain. Such motion shall be filed with the examiner and served by the moving party on the complainant and on any other parties. The filing of such motion will extend the time during which the respondent must file and serve an answer until such date as the executive director or examiner may set. The examiner may require the complainant to file and serve a statement supplying information necessary to make the complaint definite and certain.

AMENDATORY SECTION (Amending Order 88-05, filed 5/31/88)

WAC 391-45-260 SETTLEMENT CONFERENCE. (1) Prior to hearing, the parties may be requested to participate in a settlement conference conducted by a member of the commission staff other than the assigned examiner. During the course of a settlement conference, the parties will be encouraged, on factual and legal grounds including precedent on the particular subject, to resolve the unfair labor practice dispute. Participation in the settlement conference is voluntary, and the

refusal of a party to participate shall not prejudice the nonparticipating party in any manner.

(2) Whether or not a "settlement conference" has been held, the examiner may hold a "prehearing conference" to deal with procedural matters related to the hearing.

AMENDATORY SECTION (Amending Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-270 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be adversary in nature, limited to matters concerning the unfair labor practices alleged in the complaint. The complainant shall prosecute its own complaint and shall have the burden of proof. During the course of the hearing, the examiner may, upon motion by any party, or on his or her own motion, sequester witnesses. It shall be the duty of the examiner to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice so as to obtain a clear and complete factual record on which the examiner and commission may discharge their duties under these rules: PROVIDED, HOWEVER, That such duty of the examiner shall not be construed as authorizing or requiring the examiner to undertake the responsibilities of the complainant with respect to the prosecution of its complaint or of the respondent with respect to the presentation of its defense.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-290 BRIEFS AND PROPOSED FINDINGS. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings of fact, conclusions of law and order, or both, at such time as may be fixed by the examiner. The examiner may direct the filing of briefs when he or she deems such filing warranted by the nature of the proceeding or of particular issues therein.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-310 EXAMINER DECISION. After the close of the hearing and the filing of all briefs, the examiner shall make a decision containing findings of fact, conclusions of law and order. The examiner shall file the original decision with the commission and shall cause a copy thereof to be served on each of the parties.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-330 WITHDRAWAL OR MODIFICATION OF EXAMINER DECISION. On the examiner's own motion or on the motion of any party, the examiner may set aside, modify, change or reverse any findings of fact, conclusions of law or order at any time within twenty days following the issuance thereof, if any mistake is discovered therein or upon grounds of newly

discovered evidence which could not with reasonable diligence have been discovered and produced at the hearing: PROVIDED, HOWEVER, That this section shall be inoperative after the filing of a petition for review with the commission.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-45-350 PETITION FOR REVIEW OF EXAMINER DECISION. The examiner's findings of fact, conclusions of law and order shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days following the date of the order issued by the examiner. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on each of the other parties to the proceeding. Such petition for review shall contain, in separate numbered paragraphs, statements of the specific findings, conclusions, orders or rulings on which the party filing the petition seeks review by the commission. A petition for review shall have attached to it any appeal brief or written argument which the party filing the petition for review desires to have considered by the commission. Other parties to the proceeding shall have fourteen days following the date on which they are served with a copy of such petition for review and accompanying brief or written argument to file a responsive brief or written argument. The commission, the executive director or his designee may, for good cause, grant any party an extension of the time for filing of its brief or written argument. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief. In the event no timely petition for review is filed, and no action is taken by the commission on its own motion within thirty days following the examiner's final order, the findings of fact, conclusions of law and order of the examiner shall automatically become the findings of fact, conclusions of law and order of the commission and shall have the same force and effect as if issued by the commission.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-370 FILING AND SERVICE OF CROSS-PETITION FOR REVIEW. Where a petition for review has been timely filed under WAC 391-45-350, any party who has not previously filed a petition for review may, within seven days after the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadlines for the submission of briefs or written arguments shall be extended by seven days.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-390 COMMISSION ACTION. On its own motion, or on the filing of a petition for review, the entire record in the proceeding shall be transferred to the commission, and thereafter all motions and arguments shall be directed to the commission. The commission may request the parties to appear before it to make oral arguments as to certain of the issues or all of the issues in the matter. The commission shall, on the basis of the record and any briefs or arguments submitted to it on review, determine the matter.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-410 UNFAIR LABOR PRACTICE REMEDIES. If an unfair labor practice is found to have been committed, the commission or its examiner shall issue a remedial order. In calculating back pay orders, the following shall apply:

(1) Individuals reinstated to employment with back pay shall have deducted from any amount due an amount equal to any earnings such employee may have received during the period of the violation in substitution for the terminated employment, calculated on a quarterly basis.

(2) Individuals reinstated to employment with back pay shall have deducted from any amount due an amount equal to any unemployment compensation benefits such employee may have received during the period of the violation, and the employer shall provide evidence to the commission that such amount has been repaid to the Washington state department of employment security as a credit to the benefit record of the employee.

(3) Money amounts due shall be subject to interest at the rate which would accrue on a civil judgment of the Washington state courts, from the date of the violation to the date of payment.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-430 MOTION FOR TEMPORARY RELIEF. In addition to the remedies available under WAC 391-45-410, any complainant in an unfair labor practice proceeding may file a motion requesting that the commission seek appropriate temporary relief through the superior court, and all such motions shall be processed as provided in this section.

(1) The complainant shall, at the time its complaint is filed or as soon thereafter as facts giving rise to the request for temporary relief become known, provide written notice to the executive director of its intent to make a motion for temporary relief and shall, at the same time, serve a copy of such notice on each of the other parties to the proceedings.

(2) Upon the filing of a notice of intent to make a motion for temporary relief, the executive director shall expedite the processing of the matter under WAC 391-45-110.

(3) After the determination of the executive director that the complaint states a cause of action, any complainant desiring temporary relief may file with the executive director a motion for temporary relief together with affidavits as to the risk of irreparable harm and the adequacy of legal remedies, and shall serve a copy of such motion and affidavits on all other parties to the proceedings. The other parties shall have seven calendar days thereafter to file and serve counter-affidavits.

(4) The executive director shall forward all such motions and affidavits to the commission, which shall determine whether an injunction pendente lite should be sought. In making such determination, the commission shall adhere to the following policy:

"The name and authority of the public employment relations commission shall not be invoked in connection with a request for temporary relief prior to the completion of administrative proceedings under WAC 391-45-010, et seq., unless it appears that one or more of the allegations in the complaint of unfair labor practices is of such a nature that, if sustained, the complainant would have no fair or adequate remedy and the complainant would suffer irreparable harm unless the status quo be preserved pending the completion of administrative proceedings."

(a) If the commission concludes that temporary relief should be sought, the executive director, acting in the name and on behalf of the commission and with the assistance of the attorney general, shall petition the superior court of the county in which the main office of the employer is located or wherein the person who is alleged to be engaging in unfair labor practices resides or transacts business for an injunction pendente lite.

(b) Whenever temporary relief has been procured, the complaint which has been the basis for such temporary relief shall be heard expeditiously and the case shall be given priority over all other cases except cases of like character.

(c) If the commission concludes that temporary relief should not be sought prior to the conclusion of administrative proceedings in the matter, such determination shall not bar renewal of the request for temporary relief following the completion of administrative proceedings in which unfair labor practice violations have been found to exist.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-431 SPECIAL PROVISION—PUBLIC EMPLOYEES. WAC 391-45-430 is inapplicable to complaints filed under chapter 41.56 RCW. Provision for judicial relief is made by RCW 41.56.190.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-550 COLLECTIVE BARGAINING—POLICY. It is the policy of the commission to

promote bilateral collective bargaining negotiations between employers and the exclusive representatives of their employees. Such parties are encouraged to engage in free and open exchange of proposals and positions on all matters coming into the dispute between them. The commission deems the determination as to whether a particular subject is mandatory or nonmandatory to be a question of law and fact to be determined by the commission, and which is not subject to waiver by the parties by their action or inaction. It is the policy of the commission that a party which engages in collective bargaining with respect to any particular issue does not and cannot thereby confer the status of a mandatory subject on a nonmandatory subject.

READOPTED SECTION (Readopting Order 81-01, filed 1/6/81)

WAC 391-45-552 SPECIAL PROVISION—EDUCATIONAL EMPLOYEES. The obligation to bargain in good faith imposed upon an employer and the exclusive representative of its employees, respectively, by RCW 41.59.020(2) and 41.59.140 (1)(e) or (2)(c) includes:

(1) The obligation to submit, as to each subject for bargaining advanced by the party, a written statement of the language proposed for incorporation in or deletion from the collective bargaining agreement between the parties, together with a written or oral explanation or justification of such proposals.

(2) The obligation to submit, as to each subject for bargaining advanced by the other party, at least one written response thereto, together with a written or oral explanation of such response: PROVIDED, HOWEVER, That a party which asserts in a written response that a subject for bargaining advanced by the other party is not a mandatory subject for collective bargaining may thereafter refuse to make further proposals as to such subject or subjects for bargaining.

(3) The obligation to receive proposals from the other party as to all subjects for bargaining in dispute between the parties and, until a legal impasse has been reached, to refrain from demanding the removal of any such subject from the bargaining table on the basis that it is not a mandatory subject for collective bargaining.

(4) The obligation to exhaust the mediation and fact finding procedure established pursuant to RCW 41.59.120 before implementing all or any part of a final offer in negotiations, except as provided in RCW 41.59.930.

WSR 89-24-028
EMERGENCY RULES
PUBLIC EMPLOYMENT
RELATIONS COMMISSION
[Filed November 30, 1989, 11:07 a.m.]

Date of Adoption: November 15, 1989.

Purpose: Chapter 391-95 WAC is adopted to set forth complete procedures for the processing of union security dispute cases before the commission.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: RCW 41.58.050, 28B.52.080, 41.56.090 and 41.59.110.

Other Authority: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Rules adopted pursuant to chapter 34.05 RCW to harmonize with (where possible) or supplant (where necessary as described below) chapter 10-08 WAC as amended effective July 15, 1989. Readoption on an emergency basis is required because the chairman of the commission has resigned and a successor has not been appointed.

WAC 391-95-001 Scope—Contents—Other rules.

Purpose: Identifies chapter, makes cross-references to other rules.

Statute: Chapters 28B.52, 41.56, 41.58, 41.59 and 53-18 RCW (hereinafter: "substantive statutes"), generally.

Summary: Refers to other rules, as follows: Chapter 10-08 WAC for conduct of "adjudicative proceedings", generally; chapter 391-08 WAC for general procedural rules; chapter 391-25 WAC for representation cases; chapter 391-35 WAC for unit clarification cases; chapter 391-45 WAC for unfair labor practice cases; chapter 391-55 WAC for impasse resolution cases; and chapter 391-65 WAC for grievance arbitration cases.

Reasons: RCW 34.05.250 permits agencies to adopt rules different from model rules by stating reasons for variance. WAC 10-08-001 is similar.

Explanation: Amendment of existing rule to identify the areas where PERC does things differently than chapter 10-08 WAC. Details of the interface between chapters 391-08 and 10-08 WAC are specified in WAC 391-08-001.

WAC 391-95-010 Union security—Obligation of exclusive bargaining representative.

Purpose: Set forth substantive requirements that exclusive bargaining representative must follow to enforce a union security provision.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Requires exclusive bargaining representative to notify bargaining unit employees of their union security obligations, including amounts owed and effects of failure to pay.

Reasons: RCW 34.05.220(4) encourages agencies to codify their substantive policies in rules.

Explanation: Readoption of the existing rule is necessary to continue the substantive standards to be followed in union security cases. The existing rule is derived from federal and agency precedent concerning the regulation of union security disputes.

WAC 391-95-030 Union security—Assertion of right of nonassociation.

Purpose: Clear framing of issues prior to proceedings before PERC.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Requires employee asserting right of nonassociation to give notice to the exclusive bargaining representative, together with name of nonreligious charity which is to receive alternative payments. Specifies that right of nonassociation must be based on bona fide religious tenets or teachings of a church or other religious body of which the employee belongs.

Reasons: RCW 34.05.220(4) encourages agencies to codify their substantive policies in rules.

Explanation: Readoption of the existing rule is necessary to give effect to the substantive statutes administered by PERC. The APA and model rules are silent on this subject matter.

WAC 391-95-050 Union security—Response by exclusive bargaining representative.

Purpose: Clear framing of issues prior to proceedings before PERC.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Requires exclusive bargaining representative to respond to claim of right of nonassociation within 60 days of receipt of written notice of the claim, and that initial resolution efforts to be undertaken through contractual means.

Reasons: RCW 34.05.220(4) encourages agencies to codify their substantive policies in rules.

Explanation: Readoption of the existing rule is necessary to give effect to substantive agency policy drawn from federal precedent and agency expertise.

WAC 391-95-070 Union security—Filing of dispute with commission.

Purpose: Establish procedures for initiating a union security dispute case with PERC.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Exclusive bargaining representative or the employee claiming a right of nonassociation may file a petition for declaratory ruling with PERC in the event that the union security dispute cannot be resolved. The parties may litigate issues concerning the employee's eligibility to assert a right of nonassociation or the identity of the nonreligious charity that is to receive alternative payments.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 only generally states requirements for initiating an adjudicative proceeding.

Explanation: Readoption of the existing rule is necessary to continue substantive agency practice. The existing rule specifies that union security disputes are limited in nature, and is drawn from federal and agency precedent and practice in the area.

WAC 391-95-090 Union security—Petition form—Number of copies—Filing—Service.

Purpose: Specifies number of copies and filing of complaints at Olympia office; requires service on other parties.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: The party initiating a union security case must file an original and three copies with PERC's Olympia office and must serve the other party.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 provides loosely for an "application for an adjudicative proceeding." WAC 10-08-110 would permit filing at "any" office of the agency.

Explanation: Readoption of existing rule to avoid any claim of conflict with model rules. An original and three copies of documents are needed for circulation to the members of the commission in the event of intraagency appeals. Filing at the Olympia office is necessary because PERC's Yakima and Spokane offices are not staffed on a full-time basis (making it difficult to ascertain the time of "filing" for purpose of administering a six-month "statute of limitations") and because all docketing and initial processing by the executive director are performed at the Olympia office.

WAC 391-95-110 Union security—Contents of petition.

Purpose: Details information to be included in a petition for ruling on union security obligations.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Requires identifying information for agency docket records and detailed statement of alleged facts for efficient processing by PERC.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 provides loosely for an "application for an adjudicative proceeding" to specify the issue to be adjudicated in the proceeding.

Explanation: Readoption of existing rule to avoid conflict with model rules at WAC 10-08-035 and to obtain details needed by PERC for the efficient processing of cases.

WAC 391-95-130 Union security—Escrow of disputed funds.

Purpose: Reduce potential for parallel litigation to preserve job rights of employees involved in union security disputes.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Provides for suspension of action to enforce union security agreement by discharge while disputed funds are held in escrow pending resolution of the proceedings before PERC. Provides that escrowed funds are to draw interest.

Reasons: RCW 34.05.220(4) encourages agencies to codify their substantive policies in rules.

Explanation: Readoption of the existing rule is necessary to deal with substantive matters not otherwise addressed by the APA or the model rules. The existing rule is drawn from agency practice and precedent.

WAC 391-95-150 Union security—Initial processing by executive director.

Purpose: Requires review of petitions to determine whether they state a cause of action.

Statute: RCW 28B.52.045, 41.56.122, 41.58.050 and 41.59.100.

Summary: Assuming all of the facts alleged in the petition to be true and provable, the executive director determines whether, as a matter of law, a right to non-association could be found. If not, the petition is dismissed by written order.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.416 provides for the disposition of cases where the agency concludes that no adjudicative proceeding should be conducted. This rule delegates substantive decision-making authority to the executive director, to conduct what amounts to an automatic "summary judgment" on the contents of the complaint.

Explanation: Readoption of existing rule to insure that invalid petitions are dismissed at the earliest opportunity, with minimum investment of state resources, and that legitimate cases are sent to hearing.

WAC 391-95-170 Union security—Prehearing conference—Notice of hearing.

Purpose: To encourage settlements prior to investing state resources in a formal hearing.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Permits conduct of prehearing conference at discretion of examiner, to deal with both procedural and substantive matters. Permits amendment and withdrawal of notice of hearing.

Reasons: RCW 34.05.060 encourages informal settlements. RCW 34.05.431(1) requires agency to adopt rules specifying conditions and manner in which prehearing conferences are to be held. WAC 10-08-130 provides for conduct of prehearing conferences. RCW 34.05.434 sets out the type of information generally required in notices of hearing. WAC 10-08-040 prescribes specific contents of the notice. However, the existing PERC rule contains more detail and is far more specific in its requirements.

Explanation: Amendment of existing rule to incorporate concepts of prehearing conference, settlement and amendment or withdrawal of notice of hearing, leaving the actual contents of the notice of hearing to the provisions of the APA and the model rules.

WAC 391-95-190 Union security—Hearings—Who shall conduct.

Purpose: Defines who may hear the complaints.

Statute: RCW 28B.52.045, 41.56.122, 41.58.050 and 41.59.100.

Summary: Examiner can be PERC staff member or agency designee; with notice, examiners can be substituted.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-050 discusses the use of personnel supplied by the Office of Administrative Hearings, but PERC is

exempt from the Office of Administrative Hearings and chapter 34.12 RCW.

Explanation: Readoption of existing rule because the "agency head" generally does not generally preside over PERC's adjudicative hearings. The chief administrative law judge does not govern the matters covered by this rule.

WAC 391-95-230 Hearings—Nature and scope.

Purpose: Explains nature of union security dispute hearings and substantive elements of union security cases.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Specifies that hearings conducted pursuant to this chapter are limited to issues concerning union security disputes. Explains the employee's responsibility in presenting a case supporting a claim for alternative payments to union security.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.220(4) encourages agencies to codify their substantive policies in rules. Chapter 34.05 RCW and chapter 10-08 WAC are written to apply to "adjudicative proceedings" where the agency itself takes an advocacy role, and so do not adequately describe the "impartial" role of PERC in unfair labor practice hearings. WAC 10-08-190 no longer contains a reference to public hearings.

Explanation: Amendment of existing rule to clearly define the impartial posture of PERC, to permit sequestering of witnesses, to assign the burden of proof, and to identify the substantive standards to be applied.

WAC 391-95-250 Examiner decision.

Purpose: Empowers examiner to issue initial findings of fact, conclusions of law and an order.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: After the close of the hearing, the examiner is to issue findings of fact, conclusions of law and an order.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.461 regulates form and contents of initial order.

Explanation: Readoption of existing rule to delegate substantive decision-making authority to the examiner for the initial decision. The commission is a reviewing body in union security cases.

WAC 391-95-260 Withdrawal or modification of examiner decision.

Purpose: Allows examiner to modify the decision upon discovery of a mistake or new evidence.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Within 20 days following the issuance of a decision (i.e., prior to the expiration of the time for filing a petition for intraagency review), the examiner can withdraw or modify the decision if a mistake is discovered, or newly-discovered evidence is claimed.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.461 regulates form and contents of initial order.

Explanation: Readoption of existing rule to delegate substantive decision-making authority to the examiner to continue to act under these limited circumstances. The commission is a reviewing body in unfair labor practice proceedings.

WAC 391-95-270 Proceedings before the commission—Petition for review.

Purpose: Allows for intraagency review of an examiner's decision by the commission.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Within 20 days following the issuance of an examiner's decision, the parties may petition for intraagency review ("appeal") of the examiner's decision.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 specifies a 20-day period for all intra-agency appeals, and specifies a 10-day period for filing of appeal briefs.

Explanation: Readoption of existing rule is necessary to the efficient operation of PERC. The procedures and briefing schedules specified in the model rule are different from those established by PERC after actual experience with the types of issues encountered in labor-management relations.

WAC 391-95-280 Filing and service of cross-petition for review.

Purpose: Allows a party to file a cross-petition for review of an examiner's decision.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Allows an additional 7 days for the filing of a cross-petition for review.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 specifies a 20-day period for all intra-agency appeals.

Explanation: Readoption of existing rule is necessary to preserve a procedure that has worked well for PERC and its clientele up to this time. PERC adopted the "cross-petition" procedure to obviate the filing of "strategic" appeals that might otherwise be withheld.

WAC 391-95-290 Commission action.

Purpose: Explains commission action in appeals of union security dispute cases.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Transfers entire case to the commission when intraagency appeal procedures have been invoked. Permits commission to call for oral argument.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 does not deal with oral argument.

Explanation: Readoption of existing rule is necessary to specify agency action on appeals, consistent with RCW 34.05.464(1).

WAC 391-95-310 Implementation.

Purpose: Describes implementation of alternative payments in the event that a claim of nonassociation is granted.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Explains substantive procedures that the parties are to follow in the event that an employee is allowed to make alternative payments to a nonreligious charity.

Reasons: RCW 34.05.220(4) encourages agencies to codify their substantive policies in rules. The model rules do not refer to this subject matter.

Explanation: Readoption of the existing rule is necessary to continue a substantive policy that is within the agency's scope of operation to determine.

Effective Date of Rule: Immediately.

November 29, 1989
Marvin L. Schurke
Executive Director

AMENDATORY SECTION (Amending Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the public employment relations commission relating to union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC, which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 391-45, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-95-050;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by WAC 391-95-270 and 391-95-280; and

(d) WAC 10-08-230, which is supplanted by WAC 391-95-200.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

((7))) (3) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

((7))) (4) Chapter 391-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing bargaining unit.

((7))) (5) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

((7))) (6) Chapter 391-55 WAC, which contains rules relating to the resolution of impasses occurring in collective bargaining.

((7))) (7) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

READOPTED SECTION (Readopting Order 88-10, filed 5/31/88)

WAC 391-95-010 UNION SECURITY—OBLIGATION OF EXCLUSIVE BARGAINING REPRESENTATIVE. An exclusive bargaining representative which desires to enforce a union security provision contained in a collective bargaining agreement negotiated under the provisions of chapter 28B.52, 41.56, or 41.59 RCW shall provide each affected employee with a copy of the collective bargaining agreement containing the union security provision and shall specifically advise each employee of his or her obligation under that agreement, including informing the employee of the amount owed, the method used to compute that amount, when such payments are to be made, and the effects of a failure to pay.

READOPTED SECTION (Readopting Order 88-10, filed 5/31/88)

WAC 391-95-030 UNION SECURITY—ASSERTION OF RIGHT OF NONASSOCIATION. An employee who asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member shall notify the exclusive bargaining representative, in writing, of the claim of a right of nonassociation and shall, at the same time, provide the exclusive bargaining representative with the name(s) and address(es) of one or more nonreligious charitable organizations to which the employee is prepared to make alternative payments in lieu of the payments required by the union security provision.

READOPTED SECTION (Readopting Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-050 UNION SECURITY—RESPONSE BY EXCLUSIVE BARGAINING REPRESENTATIVE. Within sixty days after it is served with written notice of a claimed right of nonassociation under WAC 391-95-030, the exclusive bargaining representative shall respond to the employee, in writing, both as to the eligibility of the employee to make alternative payments and as to the charitable organization(s) suggested by the employee. If a dispute exists concerning whether the employee is within a class of employees obligated under the terms of the union security provision, all such matters of contractual interpretation shall be resolved under such procedures as may be available for unit clarification or resolution of disputes concerning the interpretation or application of the collective bargaining agreement.

READOPTED SECTION (Readopting Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-070 UNION SECURITY—FILING OF DISPUTE WITH COMMISSION. In the

event of a disagreement between an employee and his or her exclusive bargaining representative as to the eligibility of such employee to make alternative payments or as to the organization which is to receive such payments, either the employee or the exclusive bargaining representative may file with the commission a petition for a declaratory ruling on the union security obligations of the affected employee.

READOPTED SECTION (Readopting Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-090 UNION SECURITY—PETITION FORM—NUMBER OF COPIES—FILING—SERVICE. Each petition for declaratory ruling on union security obligations shall be prepared in conformance with WAC 391-95-110. The original and three copies of the petition shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on the other party to the dispute and on the employer.

READOPTED SECTION (Readopting Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-110 UNION SECURITY—CONTENTS OF PETITION. Each petition shall be headed "In the matter of the petition of (name of petitioning party) for a declaratory ruling concerning the union security obligations of (name of affected employee) under a collective bargaining agreement between (name of employer) and (name of exclusive bargaining representative)," and shall contain:

(1) The name and address of the employer and the name, address and telephone number of the employer's principal representative for the purposes of collective bargaining.

(2) The name, address and affiliation, if any, of the exclusive representative, and the name, address and telephone number of its principal representative, if any.

(3) The name, address and telephone number of the affected employee and the name, address and telephone number of his or her representative.

(4) Statements, in additional numbered paragraphs, of the matters in dispute.

(5) A copy, attached to the petition as an exhibit, of the union security provision under which the dispute arises.

(6) Any other relevant facts.

(7) The signature(s) and, if any, the title(s) of the representative(s) of the petitioner(s).

READOPTED SECTION (Readopting Order 81-01, filed 1/6/81)

WAC 391-95-130 UNION SECURITY—ESCROW OF DISPUTED FUNDS BY EMPLOYER. Upon being served with a copy of a petition filed under WAC 391-95-070, the employer shall preserve the status quo by withholding and retaining the disputed dues for periods during the pendency of the proceedings before the commission. Said funds shall draw interest at the rate provided by commercial banks for regular pass-book savings accounts. While the proceedings remain

pending before the commission, the employer shall not honor or otherwise act upon any request for discharge or other action against the affected employee based on the employee's union security obligations. This provision shall be applicable to employees covered by chapter 41-56 RCW only upon the employee submitting to the employer a signed authorization for the deduction.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-95-150 UNION SECURITY—INITIAL PROCESSING BY EXECUTIVE DIRECTOR. The matter shall be referred to the executive director who shall determine whether the facts as alleged may constitute a basis for assertion of a right of nonassociation within the meaning of the applicable statute. If it is determined that the claim does not, as a matter of law, constitute a basis for assertion of a right of nonassociation, the executive director shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor; otherwise, the executive director shall assign the matter to an examiner and shall notify the parties of such assignment. An order of dismissal issued pursuant to this section shall be subject to a petition for review as provided in WAC 391-95-270.

AMENDATORY SECTION (Amending Resolution No. 85-01, filed 9/16/85)

WAC 391-95-170 UNION SECURITY—PRE-HEARING CONFERENCE—NOTICE OF HEARING. There shall be issued and served on each of the parties to the dispute and on the employer a notice of hearing before an examiner at a time and place fixed therein. Any such notice may be amended or withdrawn prior to the close of the hearing. The examiner has discretion to conduct a prehearing conference to discuss with the parties all contested issues of fact, law, and procedure which may arise in union security cases. The parties are encouraged to reach binding stipulations on all remaining issues during the course of the prehearing conference.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-95-190 UNION SECURITY—HEARINGS—WHO SHALL CONDUCT. Hearings may be conducted by the commission, by the executive director, by a member of the agency staff or by any other individual designated by the commission or executive director as an examiner. At any time, an examiner may be substituted for the examiner previously presiding.

AMENDATORY SECTION (Amending Order 88-10, filed 5/31/88)

WAC 391-95-230 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be limited to matters concerning the determination of the eligibility of the employee to make alternative payments and the designation of an organization to receive such alternative

payments. During the course of the hearing, the examiner may, upon motion by any party, or upon his or her own motion, sequester witnesses. The employee has the burden to make a factual showing, through testimony of witnesses and/or documentary evidence, of the legitimacy of his or her beliefs, as follows:

(1) In cases where the claim of a right of nonassociation is based on the teachings of a church or religious body, the claimant employee must demonstrate:

(a) His or her bona fide religious objection to union membership; and

(b) That the objection is based on a bona fide religious teaching of a church or religious body; and

(c) That the claimant employee is a member of such church or religious body.

(2) In cases where the claim of a right of nonassociation is based on personally held religious beliefs, the claimant employee must demonstrate:

(a) His or her bona fide religious objection to union membership; and

(b) That the religious nature of the objection is genuine and in good faith.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-95-250 EXAMINER DECISION. After the close of the hearing and the filing of all briefs, the examiner shall make a decision containing findings of fact, conclusions of law, and order. The examiner shall file the original decision with the commission and shall cause a copy thereof to be served on each of the parties.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-95-260 WITHDRAWAL OR MODIFICATION OF EXAMINER DECISION. On the examiner's own motion or on the motion of any party, the examiner may set aside, modify, change, or reverse any findings of fact, conclusions of law or order at any time within twenty days following the issuance thereof, if any mistake is discovered therein or upon grounds of newly discovered evidence which could not with reasonable diligence have been discovered and produced at the hearing: PROVIDED, HOWEVER, That this section shall be inoperative after the filing of a petition for review with the commission.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-95-270 PROCEEDINGS BEFORE THE COMMISSION—PETITION FOR REVIEW. The final order of the examiner shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days following the date of the order issued by the examiner. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on the other party to the proceeding and on the employer. The petition for review shall identify the actions or rulings

claimed to be in error. Any party to the proceeding may, within fourteen days after the initiation of review, file briefs or written arguments for consideration by the commission. The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served upon the other party. The commission, the executive director or the designee of the executive director may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues in the matter. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief.

READOPTED SECTION (Readopting Order 83-07, filed 12/1/83, effective 1/1/84)

WAC 391-95-280 FILING AND SERVICE OF CROSS-PETITION FOR REVIEW. Where a petition for review has been timely filed under WAC 391-95-270, any party who has not previously filed a petition for review may, within seven days after the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition for review shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadline for the submission of briefs or written arguments shall be extended by seven days.

READOPTED SECTION (Readopting Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-290 COMMISSION ACTION. The executive director shall transfer the entire record in the proceeding to the commission. The commission shall determine the matter.

READOPTED SECTION (Readopting Order 81-01, filed 1/6/81)

WAC 391-95-310 IMPLEMENTATION. Where alternative payments in lieu of payments under a union security agreement have been agreed upon by the parties or ordered by the commission, the employer shall release any funds (together with accumulated interest) held in escrow under WAC 391-95-130 to the designated charitable organization and the employee shall thereafter make payments and shall furnish written proof to the exclusive bargaining representative that such payments have been made to the designated charitable organization. Where the employee is found ineligible to make alternative payments, the employer shall release any funds (together with accumulated interest) held in escrow to the exclusive bargaining representative and shall enforce the union security provision according to its terms. The employer and the exclusive bargaining representative shall allow the affected employee a grace period of not

less than thirty days following the agreement or final order of the commission to correct any arrearages.

WSR 89-24-029
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
[Order 2022—Filed November 30, 1989, 4:16 p.m.]

Date of Adoption: November 30, 1989.

Purpose: To provide for the safe use of pesticides and to protect the health and welfare of the people of this state.

Citation of Existing Rules Affected by this Order: Amending WAC 16-228-010 through 16-228-233 and 16-228-900.

Statutory Authority for Adoption: Chapters 17.21 and 15.58 RCW.

Pursuant to notice filed as WSR 89-20-067 on October 4, 1989.

Effective Date of Rule: Thirty-one days after filing.

November 30, 1989
Michael Schwisow
Deputy Director

AMENDATORY SECTION (Amending Order 1981, filed 7/1/88)

WAC 16-228-010 DEFINITIONS. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department of agriculture of the state of Washington, or a duly authorized representative.

(3) "Agricultural commodity" means any plant, or part ((thereof)) of a plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by ((humans)) people or animals.

((4)) (2) "Authorized agent" is any person who is authorized to act on behalf of a certified applicator for the purpose of purchasing pesticides.

((5)) (3) "Bait box" for rodenticides is a box constructed of durable metal, wood, plastic, or other treated synthetic material. It shall be designed to hold rodent bait securely, allow rodents to enter and leave, and prevent unauthorized persons and domestic animals from gaining access to the bait. The cover shall be provided with a lock that can be unlocked only by a combination, key, special tool, or forced entry. Fragile materials are unacceptable.

((6)) (4) "Bait station" may be any location where baits are placed to allow target pests to gain access to the bait.

((7)) (5) "Bulk fertilizer" is a commercial fertilizer, agricultural mineral, or lime, distributed in nonpackaged form.

((8)) (6) "Certified applicator" means any individual who is ((certified by the director to use or supervise the use of any pesticide which is classified by the Environmental Protection Agency (EPA) as a restricted-use pesticide or by the state as restricted to use by certified applicators including, but not limited to licensed commercial applicators, licensed commercial operators, licensed public operators, licensed private commercial applicators, licensed demonstration and research applicators, and certified private applicators)) licensed as a commercial pesticide applicator, commercial pesticide operator, public operator, private-commercial applicator, demonstration and research applicator, or certified private applicator, or any other individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA as a restricted use pesticide or by the state as restricted to use by certified applicators only.

((9)) (7) "Controlled disposal site" means any place where solid or liquid waste is disposed: PROVIDED, That the area has been designated as a disposal site for waste materials by the appropriate jurisdictional agency: PROVIDED FURTHER, That the site is fenced, barricaded or otherwise enclosed or attended by some person in charge to facilitate control-access of domestic animals, pets, and unauthorized persons.

((10)) (8) "Department" means the Washington state department of agriculture.

(9) "Diluent" means a material, liquid or solid, serving to dilute the pesticide product to field strength for adequate coverage (such as water).

(10) "Director" means the director of the department or a duly authorized representative.

(11) "Dry pesticide" is any granular, pelleted, dust or wettable powder pesticide.

((11)) (12) "EPA" means the United States Environmental Protection Agency.

((12)) (13) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

((13)) (14) "Fertilizer" as included in this order means any liquid or dry mixed fertilizer, fertilizer material, specialty fertilizer, agricultural mineral, or lime.

((14)) (15) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended (61 stat. 163, 7 U.S.C. Sec. 136 et seq.).

((15)) (16) "Floor level" is considered to be the floor upon which people normally walk—not shelves, ledges, overhead beams, tops of stacked materials, surfaces of equipment, or similar places.

((16)) (17) "Food service establishment" means any fixed or mobile restaurant; coffee shop; cafeteria; short order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; industrial-feeding establishment; retail grocery; retail food market; retail meat market; retail bakery; private, public, or nonprofit organization routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food

is served or provided for the public with or without charge.

((17)) (18) "Fumigant" means any substance or combination of substances that produce gas, fumes, vapors, or smoke, and is used to kill pests in some kind of enclosure.

((18)) (19) "Highly toxic pesticide" for the purpose of this chapter, ((are those pesticides determined to be in the Toxicity Category I and are labeled on the front panel with the signal word "danger." In addition if the product was assigned to Toxicity Category I on the basis of its oral, inhalation or dermal toxicity (as distinct from skin and eye local effects) the word "poison" shall appear in red on a background of distinctly contrasting color and the skull and crossbones shall appear in immediate proximity to the word "poison.")) means any pesticide that conforms to the criteria in 40 C.F.R. Sec. 156.10 for toxicity category I due to oral inhalation or dermal toxicity.

((19)) (20) "Private applicator" means a certified applicator who uses or ((supervises)) is in direct supervision of the use of (a) any EPA restricted use pesticide; or (b) any state restricted use pesticide restricted to use only by certified applicators by the director for the purposes of producing any agricultural commodity and for any associated noncrop application on land owned or rented by the private applicator or the ((private)) applicator's employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

((20)) (21) "Private-commercial applicator" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide; or (b) any ((state)) restricted use pesticide restricted to use only by certified applicators for purposes other than the production of any agricultural commodity on lands owned or rented by the applicator or the applicator's employer.

((21)) (22) "State restricted use pesticide" means any pesticide determined to be a restricted use pesticide by the director under the authority of chapters 17.21 and 15.58 RCW that are restricted to use only by certified applicators.

((22)) (23) "Unreasonable adverse effects on the environment" means any unreasonable risk to ((humans)) people or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

((23)) (24) "Waste pesticide" is any pesticide formulation which cannot be used according to label directions in Washington state because of cancellation or suspension of its federal or state registration, or deterioration of the product or its label, and any pesticide formulation whose active ingredients are not clearly identifiable because of label deterioration or because the pesticide is not stored in its original container.

AMENDATORY SECTION (Amending Order 1817, filed 4/10/84)

WAC 16-228-115 PESTICIDE LABELING REQUIREMENTS. (1) Pesticide labeling ((must)) shall

meet the standards or criteria of the Federal Insecticide, Fungicide and Rodenticide Act.

(2) Conditions set forth as part of an exemption from registration under provisions of Section 18 of FIFRA shall be considered labeling for purposes of enforcement.

NEW SECTION

WAC 16-228-116 COMPLETE PESTICIDE FORMULA. The complete pesticide formula shall include a listing of each active and inert ingredient and the percentage of each ingredient. This information will be kept confidential and is exempt from disclosure as a public record as provided by RCW 15.58.065. Information required by this section may be submitted on company letterhead marked "confidential" in red ink on each sheet or each "EPA confidential statement of formula" information sheet.

NEW SECTION

WAC 16-228-143 PIRT SURCHARGE. All licenses valid on January 1, 1990, and all licenses and pesticide registrations renewed in 1990 are subject to a one-time surcharge as specified in chapters 15.58 and 17.21 RCW. License and registration renewals shall not be granted until the surcharge has been paid.

AMENDATORY SECTION (Amending Order 1470, filed 5/14/76)

WAC 16-228-145 ADEQUATE CONTAINERS. Containers, i.e., packages, cartons, bags, cans, barrels, bins, etc., in which pesticides are sold, offered for sale, or transported within the state of Washington shall be of sufficient strength and of such construction as to alleviate danger of spillage or breakage. Pesticides found to be packaged in unsafe containers shall be placed under "stop sale" order((: PROVIDED, That)). Containers shall meet the minimum federal specifications ((of the United States Department of Transportation CFR Title 49, chapter 1, as in effect on the effective date of this order)).

AMENDATORY SECTION (Amending Order 1817, filed 4/10/84)

WAC 16-228-155 PESTICIDES—NOT FOR DISTRIBUTION TO HOME AND GARDEN USERS. (1) The following pesticides are hereby declared to be restricted use pesticides in the state of Washington because of their toxicity to ((humans)) people and animals and shall not be distributed to home and garden users. The following pesticides ((will)) shall be registered only when manufactured, labeled, delivered, distributed, sold, or held for sale for use by commercial producers and/or commercial applicators or governmental agencies experienced in the application of pesticides:

- (a) DiNitro-O-Sec Butyl Phenol (DNOSBP)
- (b) Endothall (20% and above)
- (c) Ethion (26% and above)
- (d) Guthion (16% and above)
- (e) Hydrogen Cyanide (Hydrocyanic acid) (HCN)
- (f) Methyl Bromide

(g) Strychnine and its salts (Strychnine Alkaloid 1.1% and above)

(2) Pesticide dealers shall keep records on the sale of any of the above listed pesticides. These records shall contain the date of sale, the name and amount of the pesticide sold and the name and address of the purchaser. These records shall be kept on file for a period of ((one year)) seven years and the director shall have access to these records upon request.

AMENDATORY SECTION (Amending Order 1981, filed 7/1/88)

WAC 16-228-157 WASTE PESTICIDE DISPOSAL. Under authority of ((~~RCW 70.105B.150 and 70.105B.180~~) chapter 15.58 RCW, the department may establish a waste pesticide disposal program for farmers, or other parties regulated under chapter 17.21 RCW or licensed under chapter 15.58 RCW.

(1) Upon review and determination that a pesticide is no longer useable, the department may declare a pesticide to be a "waste pesticide."

(2) The department may take possession of a waste pesticide with the owner's written consent for the purpose of disposal.

(3) For the purpose of waste pesticide disposal, the department may:

(a) Become identified as a hazardous waste generator;
 (b) Enter into contracts or cooperative agreements to carry out portions of or all of the waste pesticide disposal program. The department may also enter into cooperative agreements to carry out portions of or all of the development of education programs relating to waste pesticide disposal and programs for dissemination of information concerning the department's disposal program.

(4) The department may accept pesticides whose active ingredients are not clearly identifiable for disposal. These pesticides may be analyzed by either the department or a private laboratory. If upon analysis the material is not a pesticide, not identified or not acceptable for disposal, it shall be returned to the owner and/or not accepted for disposal.

AMENDATORY SECTION (Amending Order 1981, filed 7/1/88)

WAC 16-228-160 RESTRICTION ON DISTRIBUTION, TRANSPORTATION, STORAGE AND DISPOSAL. (1) No person shall handle, transport, store, display, apply, dispose of or distribute pesticides in such a manner as to endanger humans and their environment or to endanger food, feed, or any other product that may be transported, stored, displayed, or distributed with such pesticides. Toxicities of pesticides shall be considered in distribution, storage, handling, and merchandising practices.

(2) Highly toxic pesticides shall not be transported in the same compartment of the vehicle or other equipment together with clothes, food, feed, or any other material intended for consumption by humans or animals. Any vehicle or other equipment shall be inspected by the

owner or authorized agent for contamination before reuse. In instances where leakage or spillage has occurred, the shipper of the pesticides shall be immediately notified for instructions concerning the best method to be employed for the removal of the contamination. Vehicles or other equipment which have been contaminated shall not be returned to service until the contamination has been removed.

(3) Pesticide containers shall be secured during transit by use of side or end racks, bracing, chocks, tiedowns, or other means to prevent their sliding, falling, tipping, rolling, or falling off the vehicle with normal vehicle acceleration, deceleration, or change in direction.

(4) Valves shall be tightly closed and manhole covers shall be secured on cargo or portable tanks used for transporting pesticides, whether tanks are full or empty.

(5) Portable tanks shall be secured to prevent their sliding, falling, tipping, or rolling with normal vehicle acceleration, deceleration, or change in direction. Ends, sidewalls, or doors of van bodies shall not be relied upon for securement.

(6) Pesticides shall not be delivered to a pesticide consignee unless the consignee or authorized agent is present to accept delivery of the pesticides and signs a delivery slip and the pesticides are secured in a proper storage.

(7) Pesticides shall not be stored and/or displayed over or adjacent to meat or vegetable cases, other human foods, animal feeds, or drugs, or in any manner that may result in contamination of food, feed, or clothing. Pesticides intended for sale or distribution shall only be stored and displayed within an enclosed area of a building or fence and shall not be displayed on sidewalks.

(8) Pesticide dealers shall not sell, offer for sale, or hold for sale highly toxic pesticides in the same department where food for human consumption is displayed or sold. The use of the same "checkstand" or food packaging area is prohibited for the distribution of highly toxic pesticides.

(9) All pesticide incidents involving undesirable impacts on human health shall be reported to the Washington state department of social and health services.

(10) Pesticides in leaking, broken, corroded, or otherwise damaged containers shall not be displayed, offered for sale, or transported and shall be handled or disposed of in a manner that would not contaminate the environment or cause injury to humans and/or animals. Pesticides with obscured or damaged labels shall not be displayed or offered for sale.

(11) No person shall distribute or sell any pesticide unless it is in the registrant's or the manufacturer's unbroken, immediate container and there is affixed to the container its registered pesticide label.

(12) A user of a pesticide may distribute a properly labelled pesticide to another user who is legally entitled to use that pesticide without obtaining a pesticide dealer's license if the exclusive purpose of distributing the pesticide is keeping it from becoming a hazardous waste as defined in chapter 70.105 RCW.

(13) The distribution and use of DDT and DDD shall be prohibited in this state except for uses allowed by the

Environmental Protection Agency or the Center for Disease Control of the United States Department of Health and Human Services.

AMENDATORY SECTION (Amending Order 1996, filed 3/3/89)

WAC 16-228-164 STATE RESTRICTED USE PESTICIDES FOR USE BY CERTIFIED APPLICATORS ONLY. (1) Pesticides containing the following active ingredients are hereby declared state restricted use pesticides for the protection of groundwater and shall be distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives. These pesticides shall be used or applied only by certified applicators or persons under the direct supervision of a certified applicator and only for those uses covered by the certified applicator's license category(s).

Common Chemical Name Also Known As*

alachlor	Lasso
aldicarb	Temik
atrazine	
bromacil	Hyvar, Krovar
carbofuran	Furadan
cyanazine	Bladex
DCPA	Dacthal
1,3-dicloropropene	Telone
disulfoton	Di-Syston
diuron	Karmex, Krovar
heptachlor	
hexazinone	Velpar
metolachlor	Dual
metribuzin	Lexone, Sencor
oxamyl	Vydate
picloram	Tordon
prometon	Pramitol
simazine	Princep
tebuthiuron	Spike

*This column is to be used only as a guide and may not include all brand or trade names under which these chemicals are distributed.

(2) Pesticides defined by the following categories are hereby declared state restricted use pesticides and shall be distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives((, and)). These pesticides shall be used or applied only by certified applicators or persons under the direct supervision of a certified applicator, and only for those uses covered by the certified applicator's license category. Dealers shall keep records as defined in subsection (4) of this section, and shall furnish the records to the director as defined in subsection (7) of this section.

(a) Any EPA restricted use pesticide not listed in this rule.

(b) 2,4-D – all dry formulations and all liquid formulations distributed in packages of one gallon and larger to be used in counties located east of the crest of the Cascade Mountains. The following types of formulations are exempt from this requirement:

(i) Dry formulations labeled and intended for home and garden use only;

(ii) One gallon containers of liquid amine formulations packaged as ready-to-use products, labeled for consumer use; and

(iii) One gallon containers of liquid amine formulations containing fifteen percent or less of restricted use herbicides, labeled for consumer use.

(3) Pesticides which are not classified as EPA restricted use pesticides and which are labeled and intended only for the following uses are exempt from the requirements of this section:

(a) Home and garden use;

(b) Pet products;

(c) Cooling tower, air conditioner, industrial systems and humidifier biocides;

(d) Use within wholly enclosed structures (with floors) or fumigation chambers. Greenhouses are not considered as wholly enclosed structures.

(4) Pesticide dealers shall keep records of distribution of state restricted use pesticides specified by common chemical name in subsections (1) and (2) of this section for a period of ((five)) seven years from the date of distribution((, and shall keep records of distribution of the state restricted use pesticides specified in subsection (2) of this section for a period of one year from the date of distribution)). The records shall contain the following information:

(a) Name and address of purchaser;

(b) Name and address of certified applicator (if different from (a) above);

(c) Name of authorized agent (if applicable);

(d) Brand and specific pesticide name and/or EPA registration number;

(e) Number of pounds or gallons of the pesticide distributed;

(f) Date of distribution;

(g) Certified applicator number.

(5) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving restricted use pesticides listed in subsections (1) and (2) of this section by making previous arrangements with the pesticide dealer, or the authorized agent may provide written authorization to the dealer at the time of purchase. At the time of purchase by an authorized agent the pesticide dealer shall require the certified applicator's name and license or certification number.

(6) Certified applicators shall keep records of applications of state restricted use pesticides specified by common chemical name in subsections (1) and (2) of this section for a period of ((five)) seven years from the date of application, and the records shall contain the ((following information:

(a) Name and address of the certified applicator;

(b) Location of field or treatment site;

(c) Number of acres (or other appropriate area measurement);

(d) Crop or site (such as: Roadside);

(e) Date of application;

(f) Number of pounds or gallons of formulation applied per acre (or equivalent measurement);

(g) Brand and specific name of pesticide applied;

(h) pounds per gallon or percent active ingredient.

(i) All certified applicators except private applicators are also required to keep any additional information required by RCW 17.21.100 and WAC 16-228-190)) information specified in WAC 16-228-190.

(7) Records required by subsections (4) and (6) of this section shall be furnished to the director immediately upon request((~~PROVIDED, That the director may require the submission of application records of any restricted use pesticide within prescribed areas within fifteen days of use~~)).

AMENDATORY SECTION (Amending Order 1817, filed 4/10/84)

WAC 16-228-168 CHANGE OF EXEMPTIONS. The licensing exemption for ((landscape gardeners provided in RCW 17.21.205;)) jurisdictional health officers as provided for in RCW 17.21.220; and research personnel provided for in RCW 17.21.203 shall not apply when applying EPA restricted use pesticides or state restricted use pesticides which are restricted to use by certified applicators only: PROVIDED, That research personnel shall be required to obtain a demonstration and research applicator certification.

AMENDATORY SECTION (Amending Order 1817, filed 4/10/84)

WAC 16-228-170 PESTICIDE DEALER AND DEALER MANAGER LICENSES. (1) When more than one pesticide dealer is engaged in the business from the same outlet or location, each pesticide dealer shall obtain a license for said outlet or location.

(2) A licensed pesticide dealer manager ((must)) shall be available to the staff, customers, and department representatives at all times that an outlet or location distributes pesticides. A dealer manager may be the designated dealer manager of more than one outlet or location only if the dealer manager can be physically present at both outlets or locations during all times of pesticide distribution and handling.

AMENDATORY SECTION (Amending Order 1817, filed 4/10/84)

WAC 16-228-180 LICENSE DENIED, REVOKED OR SUSPENDED. (1) The director may deny, suspend, or revoke any provision of a license, registration, permit or certification issued under chapters 17.21 and 15.58 RCW if he finds that the applicant or the holder of the license, permit, or certification has committed any of the following acts each of which is declared to be a violation:

(a) Made false or fraudulent claims through any ((public)) media ((such as newspaper, newsletter, TV or radio;)) misrepresenting the effect of ((pesticide or application)) materials or methods to be utilized;

(b) Made a pesticide recommendation or gave advice or used a pesticide inconsistent with the labeling, the EPA or Washington state registration for that pesticide, an EPA or Washington state experimental use permit for that pesticide, an exemption from registration under provisions of Section 18 of FIFRA, or in violation of the

EPA or Washington state restrictions on the use of that pesticide;

(c) Applied known ineffective or improper pesticides or materials;

(d) Operated a faulty or unsafe apparatus;

(e) Operated in a faulty, careless or negligent manner;

(f) Refused or neglected to comply with the provisions of the applicable sections of chapters 15.58 and 17.21 RCW, the rules adopted thereunder, or of any lawful order of the director;

(g) Refused or neglected to keep and maintain records required by chapters 15.58, 17.21 RCW, and ((regulations)) rules adopted thereunder, or to make reports when and as required;

(h) Made false or fraudulent records, invoices, ((or)) reports, and/or recommendations;

(i) Caused the application of a pesticide without having a licensed or certified applicator or operator in direct supervision;

(j) Operated an unlicensed apparatus or an apparatus without a license plate issued for that particular apparatus as provided for in chapter 17.21 RCW or failed to locate the apparatus license plate on the apparatus in a manner required by the department;

(k) Failed to properly display, when required, a department issued certified commercial ground applicator vehicle sticker;

(l) Used, or supervised the use of a pesticide which is restricted to use by certified applicators without having qualified as a certified applicator;

((t))) (m) Used fraud or misrepresentation in making an application for a license, permit, or certification or renewal of a license, permit or certification;

((t))) (n) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit or certification;

((t))) (o) Aided or abetted a certified applicator, or licensed person or an uncertified or unlicensed person to evade the provisions of chapters 17.21 and 15.58 RCW, conspired with such a certified applicator or licensed person or an uncertified or unlicensed person to evade the provisions of chapters 17.21 and 15.58 RCW or allowed one's license, permit, or certification to be used by another person;

((t))) (p) Made false, misleading or erroneous statements or reports during or after an inspection concerning any infestation or infection of pests found on land or in connection with any pesticide complaint or department investigation;

((t))) (p) Made false or fraudulent reports and/or recommendations;))

(q) Impersonated any state, county, or city inspector or official;

(r) Is not qualified to perform as a pest control consultant or pesticide dealer manager or certified applicator in the classifications in which he/she is licensed to operate or has operated, regardless of whether or not he/she has previously passed an examination provided for in chapter 15.58 RCW; or

(s) To have in his/her possession a department pesticide applicator, operator, dealer manager or pest control consultant examination or to remove or cause to remove

any said examination from the department without expressed consent from the department.

(2) A penalty fee assessed as a result of a late license or registration renewal does not prevent the department from taking additional regulatory action against the violator.

(3) No pesticide dealer or dealer manager license shall be denied, suspended, or revoked, simply because a pesticide purchased from that dealer was applied in violation of chapters 15.58, 17.21 RCW or rules adopted thereunder, unless the department finds the dealer or dealer manager in violation of chapters 15.58, 17.21 RCW or rules adopted thereunder.

AMENDATORY SECTION (Amending Order 1981, filed 7/1/88)

WAC 16-228-185 RESTRICTIONS APPLYING TO ANY PERSON HOLDING, HANDLING, USING, OR DISPOSING OF PESTICIDES AND THEIR CONTAINERS. (1) Any person handling, applying, or disposing of pesticides or pesticide containers shall do so in such a manner to minimize hazard to commercially important pollinating insect species. Due care shall be taken to regulate the timing and technique of pesticide applications to or around blossoming plants.

(2) No person shall transport, handle, store, load, apply, or dispose of any pesticide, pesticide container or apparatus in such a manner as to pollute water supplies or waterways, or cause damage or injury to land, including humans, desirable plants and animals, or wildlife: PROVIDED, That a pesticide labeled for aquatic use and used as directed shall not be considered a violation of this subsection: PROVIDED FURTHER, That disposing of pesticides at disposal sites approved by the appropriate agency complies with the requirements of this subsection. Toxicity, volatility, and mobility of pesticides shall be considered in complying with this subsection.

(3) No person shall pollute streams, lakes, and other water supplies in pesticide loading, mixing, and application. Adequate, functioning devices and procedures to prevent backsiphoning shall be used.

(4) None of the following pesticides shall be applied by aircraft or airblast sprayers immediately adjacent to occupied schools in session, hospitals, nursing homes or other similar establishments under conditions that may result in contamination of these establishments or their premises:

- (a) Monocrotophos (Azodrin)
- (b) Demeton (Systox)
- (c) Disulfoton (DiSyston)-Liquid
- (d) Aldicarb (Temik)
- (e) Endrin
- (f) Tepp
- (g) Parathion
- (h) Phorate (Thimet)-Liquid
- (i) Mevinphos (Phosdrin)
- (j) Zinophos

(5) No person shall apply pesticides if weather conditions are such that physical drift or volatilization may cause damage to adjacent land, including humans, desirable plants or animals.

(6) Requirements for unattended pesticides and their containers:

(a) Good generally accepted housekeeping practices shall be maintained for all pesticides and their containers.

(b) The provisions of (d) and (e) of this subsection and subsection (7) of this section shall not apply to empty pesticide containers when adequately decontaminated (e.g., three successive rinsings); shall not apply to categories 2, 3, and 4 pesticide formulations labeled for home and garden use only.

(c) For the purposes of (d) and (e) of this subsection and subsection (7) of this section, pesticides and their containers at the loading area shall not be considered unattended during the spraying operation if the operator maintains either visual control or repeatedly returns at closely spaced intervals.

(d) Category 1 — ((highly toxic)) Pesticides labeled with the signal word "danger" and their containers shall be stored in one of the following enclosures which, when unattended, shall be so constructed and locked (except (v) below) to prevent children, unauthorized persons, livestock, or other animals from gaining entry.

(i) Closed vehicle.

(ii) Closed trailer.

(iii) Building or room or fenced area with a fence at least six feet high.

(iv) Foot locker or other container which can be locked.

(v) Unattended trucks or trailers which have solid sideracks and secured tailgate at least six feet above ground, ramp or platform level.

(vi) Bulk storage containers fifty gallons and larger with tight screw-type bungs and/or secured or locked valves.

(e) Category 2 — pesticides labeled with the signal word "warning" and categories 3 and 4 — pesticides labeled with the signal word "caution" and their containers shall be stored in secured storage out of the reach of children in one of the enclosures listed in (d) of this subsection: PROVIDED, That metal containers, twenty-eight gallons and larger, with tight screw-type bungs and/or secured or locked valves and sealed five gallon containers (requiring tool to unseal) shall be considered secured storage.

(7) Requirements for posting of storage for category 1 pesticides:

(a) For purposes of this subsection, warning signs shall show the skull and crossbones symbol and the words: "Danger/Poison (or Pesticide or Chemical) Storage Area/Keep Out" in letters large enough to be legible at a distance of thirty feet.

(b) Warning signs shall be posted:

(i) On enclosures specified in subsection (6)(d) of this section, when such enclosures are unattended;

(ii) At each entrance or exit from a storage area and on each exterior wall, so that a sign is visible from any direction;

(iii) If the pesticide storage area is contained in a larger, multipurpose structure, warning signs shall be clearly visible on each exterior wall of the structure within thirty feet of the pesticide storage area and from

the main entrance to the larger structure: PROVIDED, That posting of the main entrance shall not be required, if a sign is visible from the entrance which clearly identifies the possibility that pesticides may be stored on the premises, (i.e., XYZ Pest Control or XYZ Wood Treatment, Inc.);

(8) No person shall disperse a pesticide or pesticide rinsate from any aircraft while in flight except over the target field and at the customary application height for that crop: PROVIDED, That emergency dumping shall not be considered a violation of this section.

NEW SECTION

WAC 16-228-213 REQUIREMENTS ON PLACEMENT OF COMMERCIAL APPLICATOR APPARATUS LICENSE PLATES AND WINDSHIELD IDENTIFICATION. (1) Apparatus license plates, as provided for in chapter 17.21 RCW, shall be attached to and prominently displayed on the apparatus for which they have been issued: PROVIDED, That an apparatus license plate may be affixed to a vehicle which contains the particular apparatus. Attached plates shall be clearly visible and in a location easily accessible for inspection by the department.

(2) Each vehicle involved in the operations of a certified commercial ground application business, which does not prominently display a department issued apparatus license plate on its exterior or on the specific apparatus when that apparatus is exteriorly visible, shall be required to have a department issued sticker affixed to the lower left side of the windshield.

AMENDATORY SECTION (Amending Order 1981, filed 7/1/88)

WAC 16-228-215 APPLICATION FEE AND FAA CERTIFICATE. (1) An applicant shall complete the application form for a pesticide license and pay the required license application fee prior to being given pesticide examinations, unless prior arrangements have been made.

(2) ((Applicants for an aerial applicators license shall supply a current copy of their FAA operating certificate to the director)) All applicants for an aerial applicators license shall comply with FAA certification requirements. The department may require a current copy of the FAA operating certificate prior to issuance of ((their)) a license.

AMENDATORY SECTION (Amending Order 1981, filed 7/1/88)

WAC 16-228-220 EXAMINATION REQUIREMENTS. (1) An examination fee of ((five)) ten dollars shall be paid prior to administration of any pesticide license examination at other than a regularly scheduled examination session. ((Candidates for public pesticide operator/public pest control consultant or private pesticide applicator are exempt from payment of the five-dollar fee.)) Scheduled exam sessions occur every Tuesday at the Olympia and Yakima pesticide management

division offices. The department reserves the right to restrict the number of applicants examining at any given time.

(2) Any individual who fails any pesticide licensing examination twice shall be required to wait at least fourteen days before retaking that examination a third time. Subsequent testing shall be at the director's discretion.

NEW SECTION

WAC 16-228-223 GROUND MAINTENANCE ON AN OCCASIONAL BASIS—EXEMPT FROM LICENSING REQUIREMENTS. Grounds maintenance persons are exempt from licensing requirements as a commercial pesticide applicator, as provided under chapter 17.21 RCW, only if they perform ground maintenance on an occasional basis not amounting to a regular occupation. Exempted persons shall only perform pesticide applications to the grounds of residential dwellings and shall only use home and garden products.

AMENDATORY SECTION (Amending Order 1817, filed 4/10/84)

WAC 16-228-225 REGULATION OF APPLICATION OF VERTEBRATE CONTROL PESTICIDES. Vertebrate control pesticides shall be used only under the following conditions:

(1) Vertebrate control pesticides shall be placed only in locations that are not readily accessible to nonpest animals, children, and unauthorized persons, and in a manner that shall preclude contamination of food, feed, drugs, and other consumer commodities. Exposure of rodenticides baits within buildings shall not be above floor levels.

(2) Baits ((must)) shall be colored or otherwise formulated so that they will be identifiable from foods common to the establishment in which the bait is placed. All compound 1080 solutions shall be dyed black. All 1080 baits shall be discolored.

(3) When the use of bait boxes is necessary to ensure that baits are not readily accessible to nonpest animals, children, and unauthorized persons, the bait boxes shall be of sturdy construction and designed to accomplish that purpose, and shall be labeled clearly with letters on contrasting background showing the following information:

(a) Any information required by the EPA or Washington state registered label for the bait or the concentrate from which it was formulated.

(b) The name of the active ingredient(s).

(c) For the baits containing Sodium Fluoroacetate (1080), Fluoroacetamide (1081), and phosphorus paste the words "DANGER" — "RODENT BAIT" — "FATAL POISON" in red letters not less than one-half inch in height and the skull and crossbones insignia in red, not smaller than the letters and on contrasting background; and in letters not less than one-eighth inch in height, the name of the rodenticide.

(d) The name of the firm and/or applicator, address, and the telephone number.

(4) Containers used for exposing vertebrate control baits to pests shall be composed of tough, nonabsorbent, corrosion resistant materials and designed so they cannot be readily overturned or carried off by pest animals. Those containers that are used for exposing vertebrate control pesticides outside of bait boxes shall bear a legible warning label with wording not less restrictive than requirements on bait boxes being used as per WAC 16-228-225(3), (except for the size of lettering). Food containers, such as "meat boats" and "souffle cups" are unacceptable. Containers used for liquid bait exposure shall be water and/or liquid impervious.

((For residential areas, bait portions will be limited at each bait station to quantities containing no more than one-fourth of a LD₅₀ dose of the pesticide for a seventy kilogram (approximately one hundred fifty-four pound) human.

((6))) All vertebrate control pesticide stocks, when not in use or when unattended, shall be kept in locked storage or locked service vehicles. In addition, Compounds 1080 and 1081 shall be kept in a locked container within locked storage or locked service vehicle.

((7))) (6) All containers used for storing or transporting vertebrate control pesticides shall bear an EPA or department registered label.

((8))) (7) Servicemen's kits which contain vertebrate control pesticides shall be handled with extra caution and shall not be left where children or other unauthorized persons or nontarget animals might remove contents.

((9))) (8) Upon completion of a baiting operation, all bait boxes, containers, and/or throw bags, if they may become readily accessible to the public, shall be recovered for disposal in an approved manner.

((10))) (9) Wherever poisoned carcasses jeopardize public sanitation, or create a health hazard to wildlife, domestic animals, or the public, they ((must)) shall be recovered and disposed of by burning, burying not less than three feet below the soil surface, or placed in proper waste containers and delivered to an approved disposal site.

((11))) (10) Thallium-containing compounds shall not be used for vertebrate control.

NEW SECTION

WAC 16-228-233 INVESTIGATIVE RESPONSE TIME. Upon receipt of a verified report of loss as set forth in RCW 17.21.190, the department shall initiate an investigation. Investigation of a complaint concerning immediate acute pesticide exposure to humans or animals shall be initiated immediately. Other complaint investigations shall be initiated no later than forty-eight hours after receipt of the verified report of loss.

AMENDATORY SECTION (Amending Order 1805, filed 8/1/83)

WAC 16-228-900 PENALTIES. Any person who violates the provisions of ((these regulations)) this chapter shall be guilty of a misdemeanor pursuant to RCW 15.58.330 and 17.21.310.

WSR 89-24-030

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed November 30, 1989, 4:18 p.m.]

Date of Adoption: November 30, 1989.

Purpose: Adoption of new rules of practice and procedure in compliance with the new Administrative Procedure Act.

Citation of Existing Rules Affected by this Order: Repealing chapter 192-09 WAC; and amending WAC 192-40-020, 192-40-040, 192-40-050, 192-40-060, 192-40-070, 192-40-080, 192-40-090 and 192-40-100.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Pursuant to notice filed as WSR 89-19-079 on September 20, 1989.

Changes Other than Editing from Proposed to Adopted Version: WAC 192-04-170 increases response time on petition for review from 10 to 15 days; WAC 192-04-180 modified for consistency with WAC 192-04-060; and WAC 192-04-210 modified to define the term delivery.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: RCW 34.05.250 requires an agency which is adopting rules which differ from the model rules of procedure adopted by the Office of Administrative Hearings to include in the order of adoption "a finding stating the reasons for variance." The required findings are shown below.

Preamble: The general purpose behind the drafting of these procedural rules has been to keep adjudicative proceedings under the Employment Security Act as consistent as possible with prior agency practices, while still adhering to the requirements of the new APA, chapter 34.05 RCW.

WAC 192-04-010: This regulation does not differ from any of the model rules of procedure. The purpose of this regulation is to formally adopt the model rules of procedure. This regulation also states the general rule of construction of the Employment Security Department's procedural rules in relation to the model rules of procedure.

WAC 192-04-020: This regulation does not differ from any of the model rules of procedure. The purpose of this regulation is to define certain words and phrases which are used in the Employment Security Department's procedural rules.

WAC 192-04-030: This regulation does not differ from any of the model rules of procedure. The purpose of this regulation is to state the general rule of applicability of the Employment Security Department's procedural rules in relation to federal law. This regulation is consistent with prior Employment Security WAC 192-09-062.

WAC 192-04-050: This regulation does not differ from any of the model rules of procedure. The purpose of this regulation is to state the types of decisions under

the Employment Security Act which must include a notice of appeal or petition for hearing rights. This regulation is also consistent with prior Employment Security WAC 192-09-060.

WAC 192-04-060: The purpose of this regulation is to set out the details for the filing of appeals, petitions for hearing and petitions for review under the Employment Security Act. The first paragraph states the place, time and manner for filing appeals and petitions for hearing as specifically authorized by RCW 34.05.413(3). The second paragraph states the time and manner of filing petitions for review to the Commissioner of the Employment Security Department from decisions of the Office of Administrative Hearings. The thirty day time period for filing petitions for review which differs from model rule, WAC 10-08-211(2), is required by chapter 50.32 RCW. The third paragraph allows the Employment Security Department to furnish forms for the filing of appeals, petitions for hearing and petitions for review as authorized by RCW 34.05.413(3), and consistent with model rule, WAC 10-08-035.

WAC 192-04-070: This regulation does not differ from any of the model rules of procedure. The purpose of this regulation is to state the requirement that parties to administrative hearings under the Employment Security Act must notify the Office of Administrative Hearings and Commissioner's Review Office of any change in their mailing address, consistent with prior agency practice.

WAC 192-04-080: The purpose of this regulation is to state the method by which the time for filing appeals, petitions for hearings and petitions for review will be measured. This regulation is consistent with the time computation method specified in model rule, WAC 10-08-080, but is more specific to the Employment Security Act. This regulation is also consistent with prior Employment Security WAC 192-09-065.

WAC 192-04-090: This regulation does not differ from any of the model rules of procedure. The purpose of this regulation is to state the factors to be considered in determining whether there is good cause under RCW 50.32.075 for accepting late appeals and petitions, consistent with prior agency practice.

WAC 192-04-100: The purpose of this regulation is to state the requirements for the withdrawals of appeals and petitions as contemplated by RCW 34.05.060. This regulation is consistent with model rule, WAC 10-08-230 (1)(c), but is more specific to the Employment Security Act. This regulation is also consistent with prior Employment Security WAC 192-09-070.

WAC 192-04-110: This regulation does not differ from any of the model rules of procedure. The purpose of this regulation is to reenact prior Employment Security WAC 192-09-120 allowing representation in adjudicative proceedings under the Employment Security Act, as authorized by RCW 34.05.428(2).

WAC 192-04-120: The purpose of this regulation is to state the requirements for requesting postponements and continuances. This regulation is consistent with model rule, WAC 10-08-090, but is simplified to keep

the procedure for requesting postponements and continuances as consistent as possible with prior agency practice.

WAC 192-04-130: This regulation does not differ from any of the model rules of procedure. The purpose of this regulation is to allow limited discovery in adjudicative proceedings under the Employment Security Act, as authorized by RCW 34.05.446(3). This regulation is consistent with prior Employment Security WAC 192-09-410.

WAC 192-04-140: This regulation does not differ from any of the model rules of procedure. The purpose of this regulation is to allow for consolidated cases in adjudicative proceedings under the Employment Security Act. This regulation is consistent with prior Employment Security WAC 192-09-165.

WAC 192-04-150: The purpose of this regulation is to state the necessary contents of most decisions issued in adjudicative proceedings under the Employment Security Act. This regulation is consistent with model rule, WAC 10-08-210, but is more specific to the Employment Security Act. This regulation is also consistent with prior Employment Security WAC 192-09-300.

WAC 192-04-160: This regulation does not differ from any of the model rules of procedure. The purpose of this regulation is to specifically allow for incorporation by reference of decisions of the Office of Administrative Hearings in decisions of the commissioner, consistent with prior agency practice.

WAC 192-04-170: The purpose of this regulation is to set out the requisites for filing petitions for review to the Commissioner of the Employment Security Department of decisions by the Office of Administrative Hearings in adjudicative proceedings under the Employment Security Act. The first subsection states the place and time for filing petitions for review. The thirty day time period for filing petitions for review, which differs from model rule, WAC 10-08-211(2), is required by chapter 50.32 RCW. The second subsection allows for written argument and states the procedure for acknowledging receipt of the petition. This subsection is consistent with model rule, WAC 10-08-211(3), but is more specific to procedures of the commissioner's review office under the Employment Security Act. The third subsection states procedures for filing replies to the petition for review. The fifteen day deadline varies from model rule, WAC 10-08-211(4), to allow additional time for parties to review the record before responding to the petition. The fourth subsection specifies that certain post decision events do not stay the time for filing a petition for review. The fifth subsection states the general rule that submissions which do not meet the procedural requirements of this regulation will not be considered absent a showing of good cause.

WAC 192-04-180: This regulation does not differ from any of the model rules of procedure. The purpose of this regulation is to specify that there is no right to a petition for review to the Commissioner of the Employment Security Department from orders approving a withdrawal, or a consent order. This regulation also specifies that petitions for review of orders of default will

only be accepted upon a showing of good cause, consistent with RCW 34.05.440(1). This regulation is also consistent with prior Employment Security WAC 192-09-310 and prior agency practice.

WAC 192-04-190: The purpose of this regulation is to set out the requisites for filing petitions for reconsideration. The first subsection specifies the time, place and manner for filing petitions for reconsideration as specifically authorized by RCW 34.05.470(1). This subsection is consistent with model rule, WAC 10-08-215, but is more specific to the Employment Security Act. The second subsection states the general rule as to when petitions for reconsideration will be granted. The third subsection specifies when petitions for reconsideration will be deemed to be denied as authorized by RCW 34.05.470(3). The fourth subsection specifies that the filing of a petition for reconsideration does not stay the effectiveness of the order, as authorized by RCW 34.05.470(2); and that denial of such a petition is not subject to judicial review, as authorized by RCW 34.05.470(5).

WAC 192-04-200: This regulation does not differ from any of the model rules of procedure. The purpose of this regulation is to specify the circumstances under which declaratory orders will not be issued, as authorized by RCW 34.05.240(2).

WAC 192-04-210: This regulation does not differ from any of the model rules of procedure. The purpose of this regulation is to specify the address for filing petitions for judicial review and to clarify what constitutes "delivery" under RCW 34.05.542(4).

The following is suggested language for including in the order of adoption of the new JTPA procedural rules, chapter 192-40 WAC, to meet the requirements of RCW 34.05.250: The procedures stated in these regulations are designed to comply with the requirements of the Job Training Partnership Act, 29 U.S.C. Sec. 1501 et seq., for state level adjudicative proceedings under this federal act. To the extent that these procedural regulations differ from the model rules of procedure, chapter 10-08 WAC, such variance is necessary for compliance with federal law.

Effective Date of Rule: January 1, 1990.

November 30, 1989
Ernest F. LaPalm
Deputy Commissioner

REPEALER

Chapter 192-09 WAC is hereby repealed.

NEW SECTION

WAC 192-04-010 ADOPTION OF MODEL RULES. The Model Rules of Procedure contained in Chapter 10-08 WAC, as they exist now or may be hereafter amended, are, to the extent they are not inconsistent with the rules contained in this chapter, adopted as the rules of procedure before this agency. The rules contained in this chapter will, to the extent of any conflict with the Model Rules of Procedure, be deemed to supersede the conflicting provisions of the

Model Rules of Procedure. The Model Rules of Procedure will be included in the departmental publication provided for in RCW 50.12.160.

NEW SECTION

WAC 192-04-020 DEFINITIONS. Unless the context in this chapter clearly indicates otherwise, the following terms and phrases shall have these meanings:

(1) "Appeal" means a request for a hearing before and decision by the office of administrative hearings in a matter involving unemployment insurance benefits.

(2) "Petition for Hearing" means a request for hearing before and decision by the office of administrative hearings in a matter involving unemployment insurance taxes.

(3) "Petition for Review" means a request directed to the commissioner for a review of the proceedings held and decision issued by the office of administrative hearings.

(4) "Advisement Order" means an order issued by the commissioner on his or her own motion assuming jurisdiction over a matter heard and/or decided by the office of administrative hearings.

(5) "Commissioner" means the commissioner's review office of the employment security department.

NEW SECTION

WAC 192-04-030 APPEALS—PETITIONS FOR REVIEW—PAYMENTS UNDER FEDERAL PROGRAMS. When the applicable federal law, regulations or guidelines for any federal program administered by the employment security department provides for the right of appeal, petition for hearing or petition for review from a determination or decision of the employment security department or the office of administrative hearings, the procedures outlined in Title 50 RCW, Title 34 RCW, and chapter 192-04 WAC shall, to the extent that said procedures are consistent with the federal law, regulations and guidelines, be utilized for the disposition of such appeals or petitions for review.

NEW SECTION

WAC 192-04-050 APPEALS—PETITIONS FOR HEARING—RIGHT TO NOTICE Notice of appeal or petition for hearing rights shall be set forth on the face of, or as an attachment to, each of the following:

(1) Redetermination of an initial monetary determination.

(2) Determination of allowance or denial of waiting period credit or benefits.

(3) Redetermination of allowance or denial of waiting period credit or benefits.

(4) An overpayment assessment or a denial of a request for waiver of an overpayment.

(5) Order and notice of assessment of contributions, interest, or penalties.

(6) Denial of a claim for refund of contributions, interest, or penalties.

(7) Denial of a request for relief of benefit charges made to an employer's account.

(8) Denial of a redetermination or adjustment of an employer's determined or redetermined rate of contribution.

(9) Denial of approval or extension of standby status.

(10) Denial of a request for commissioner approved training.

NEW SECTION

WAC 192-04-060 APPEALS—PETITIONS FOR HEARING—PETITIONS FOR REVIEW—TIME LIMITATION—FORMS. Any interested party who is aggrieved by any decision of the department set forth in WAC 192-04-050 may file a written appeal or petition for hearing with any job service center or district tax office or the unemployment compensation agency in any other state or territory. Such appeal or petition for hearing shall be filed within thirty days of the date such decision is delivered or mailed, whichever is the earlier. If the appeal and/or petition for hearing is mailed, it shall be filed in accordance with the provisions of RCW 50.32.025.

Any interested party who is aggrieved by a decision of the office of administrative hearings, other than an order approving a withdrawal of appeal, an order approving a withdrawal of a petition for hearing, a consent order, or an interim order, may file a written petition for review in accordance with the provisions of WAC 192-04-170. Such petition for review shall be filed within thirty days of the date of delivery or mailing of such decision, whichever is the earlier. If the petition for review is mailed it shall be filed in accordance with the provisions of RCW 50.32.025.

At the request of such party, the employment security department shall furnish forms for the filing of a notice of appeal, petition for hearing, or petition for review, but the use of such forms is not a jurisdictional requirement.

NEW SECTION

WAC 192-04-070 MAILING ADDRESSES—OBLIGATIONS OF PARTIES. Once an appeal or petition for hearing has been filed, any interested party must notify the office of administrative hearings of any change of mailing address.

Once a petition for review has been filed, any interested party must notify the commissioner's review office of any change of mailing address.

Any interested party who fails to comply with this regulation will not be deemed to have good cause for failure to appear at a hearing or for late filing of a petition for review or untimely submission of a reply or petition for reconsideration.

NEW SECTION

WAC 192-04-080 APPEALS—PETITIONS FOR HEARING—PETITIONS FOR REVIEW—ADVISEMENT ORDERS—TIME COMPUTATION The time within which an appeal, a petition for hearing, a petition for review, or advisement order is to be perfected, under the provisions of the Employment Security Act

(Title 50 RCW, as amended) shall be computed by excluding the day of delivery or mailing of the determination, redetermination, denial, order and notice of assessment, or decision and including the last day. If the last day is a Saturday or Sunday or a holiday, as defined in RCW 1.16.050, the appeal, petition for hearing, petition for review or advisement order must be perfected no later than the next business day.

NEW SECTION

WAC 192-04-090 UNTIMELY APPEALS, PETITIONS FOR HEARING OR PETITIONS FOR REVIEW—GOOD CAUSE The following factors shall be considered in determining whether good cause exists under RCW 50.32.075 for the late filing of an appeal, petition for hearing or petition for review:

(a) the length of the delay,

(b) the excusability of the delay, and

(c) whether acceptance of the late filed appeal, petition for hearing, or petition for review will result in prejudice to other interested parties, including the department.

NEW SECTION

WAC 192-04-100 APPEALS, PETITIONS FOR HEARING OR PETITIONS FOR REVIEW—WITHDRAWAL OF. Any interested party may withdraw his or her appeal, petition for hearing or petition for review at any time prior to a decision thereon, in which case the previous determination, redetermination, denial, order and notice of assessment or decision shall be final in accordance with the provisions of the Employment Security Act. Such withdrawal shall, however, be subject to the approval of the office of administrative hearings in the case of an appeal or petition for hearing, or of the commissioner in the case of a petition for review.

NEW SECTION

WAC 192-04-110 HEARINGS—REPRESENTATION—CROSS-EXAMINATION. Any interested party, or his or her legally authorized representative, shall have the right to give testimony and to examine and cross-examine any other interested party and/or witnesses with respect to facts material and relevant to the issues involved.

NEW SECTION

WAC 192-04-120 HEARINGS—POSTPONEMENTS—CONTINUANCES. Any party to a hearing may request a postponement of a hearing at any time prior to the actual convening of the hearing. The granting or denial of the request will be at the discretion of the presiding administrative law judge.

The presiding administrative law judge may in the exercise of sound discretion grant a continuance of a hearing at any time at the request of any interested party or on his or her own motion.

NEW SECTION

WAC 192-04-130 DISCOVERY—DEPOSITIONS AND INTERROGATORIES. At the discretion of the presiding administrative law judge he or she may cause to be taken depositions or interrogatories on his or her own motion, or at the request of any interested party.

NEW SECTION

WAC 192-04-140 CONSOLIDATED CASES. The presiding administrative law judge may hear individual matters on a consolidated record if there is a substantial identity of issues and the rights of no party will be adversely affected thereby. Such procedure should provide for the hearing of additional or unique issues relating to individual cases.

NEW SECTION

WAC 192-04-150 DECISIONS—CONTENTS. Every decision issued by the office of administrative hearings, other than an order approving a withdrawal of appeal, an order approving a withdrawal of a petition for hearing, a consent order, or an interim order, and every decision issued by the commissioner pursuant to RCW 50.32.080, other than an interim order or an order granting or denying a motion for reconsideration or a stay, shall:

- (1) Be correctly captioned as to the name of the agency and name of the proceeding;
- (2) Designate all parties and representatives participating in the proceeding;
- (3) Include a concise statement of the nature and background of the proceeding;
- (4) Contain appropriate numbered findings of fact meeting the requirements in RCW 34.05.461;
- (5) Contain appropriate numbered conclusions of law, including citations of statutes and rules relied upon;
- (6) Contain an initial or final order disposing of all contested issues;
- (7) Be accompanied by or contain a statement of petition for review or petition for judicial review rights.

NEW SECTION

WAC 192-04-160 DECISION OF COMMISSIONER—INCORPORATION. A decision of the commissioner issued pursuant to RCW 50.32.080 may incorporate by reference any portion of the decision under review. Such incorporation shall be deemed to meet the requirements of WAC 192-04-150.

NEW SECTION

WAC 192-04-170 DECISION OF COMMISSIONER—PETITION FOR REVIEW—FILING—REPLY. (1) The written petition for review shall be filed with any job service center or the agency records center of the employment security department, 212 Maple Park Drive, Olympia, WA, 98504, or the unemployment compensation agency in any other state or territory. Such petition for review shall be filed within thirty

days of the date of the mailing or delivery of the decision of the office of administrative hearings, whichever is the earlier.

(2) Any written argument in support of the petition for review must be attached to the petition for review and filed contemporaneously therewith. The commissioner's review office will acknowledge receipt of the petition for review and mail a copy of such acknowledgement to the petitioning party and his or her representative of record, if any. The commissioner's review office will also mail copies of the acknowledgement, petition for review and attached argument to the non-petitioning parties of record and their representatives, if any.

(3) Any reply to the petition for review and any argument in support thereof shall be filed within fifteen days of the date of mailing of the acknowledgement of the petition for review. It shall be mailed or delivered to the commissioner's review office, Employment Security Department, 212 Maple Park Drive, Olympia, WA, 98504, and to all other parties and their representatives.

(4) Arrangements for representation and requests for copies of the hearing record and exhibits will not extend the period for the filing of a petition for review, argument in support thereof, or a reply to the petition for review.

(5) Any argument in support of the petition for review or in reply thereto not submitted in accordance with the provisions of this regulation shall not be considered in the disposition of the case absent a showing that failure to comply with these provisions was beyond the reasonable control of the individual seeking relief.

NEW SECTION

WAC 192-04-180 DECISIONS—DISPOSITION OTHER THAN BY HEARING ON THE MERITS—PETITION FOR REVIEW. The presiding administrative law judge may dispose of any appeal or petition for hearing by an order approving a withdrawal of appeal, an order approving a withdrawal of a petition for hearing, a consent order or an order of default. There shall be no petition for review rights from an order approving a withdrawal of appeal, an order approving a withdrawal of a petition for hearing or a consent order.

Any interested party aggrieved by the entry of an order of default may file a petition for review from such order by complying with the filing requirements set forth in WAC 192-04-170: PROVIDED, HOWEVER, That the default of such party shall be set aside by the commissioner only upon a showing of good cause for failure to appear or to request a postponement prior to the scheduled time for hearing. In the event such order of default is set aside, the commissioner shall remand the matter to the office of administrative hearings for hearing and decision.

NEW SECTION

WAC 192-04-190 PETITION FOR RECONSIDERATION—FILING—CONSIDERATION—DISPOSITION—JUDICIAL REVIEW. (1) A written petition for reconsideration and argument in support

thereof may be filed within ten days of the date of mailing or delivery of the decision of the commissioner, whichever is the earlier. It shall be mailed or delivered to the commissioner's review office, Employment Security Department, 212 Maple Park Drive, Olympia, WA, 98504, and to all other parties of record and their representatives.

(2) No matter will be reconsidered by the commissioner unless it clearly appears from the face of the petition for reconsideration and the argument submitted in support thereof that (a) there is obvious material, clerical error in the decision or (b) the petitioner, through no fault of his or her own, has been denied a reasonable opportunity to present argument or respond to argument pursuant to WAC 192-04-170.

(3) A petition for reconsideration shall be deemed to have been denied if, within twenty days from the date the petition for reconsideration is filed, the commissioner does not either (a) dispose of the petition for reconsideration or (b) mail or deliver to the parties a written notice specifying the date by which he or she will act on the petition for reconsideration. If no action is taken by the date specified in such written notice, the petition will be deemed to have been denied.

(4) A petition for reconsideration does not stay the effectiveness of the decision of the commissioner. The filing of a petition for reconsideration is not a prerequisite for filing a petition for judicial review. An order denying reconsideration or a written notice specifying the date upon which action will be taken on the petition for reconsideration is not subject to judicial review.

NEW SECTION

WAC 192-04-200 DECLARATORY ORDERS
The commissioner will not issue a declaratory order on any matter that may be adjudicated under any statute, regulation or other provision of law. No declaratory order will be issued which is merely an advisory opinion.

NEW SECTION

WAC 192-04-210 PETITIONS FOR JUDICIAL REVIEW—SERVICE ON AGENCY Delivery pursuant to RCW 34.05.542(4) shall be deemed to have been made when a copy of the petition for judicial review has been received by the: Agency Records Center at 212 Maple Park Drive, Olympia, WA, 98504.

AMENDATORY SECTION (Amending Order 1-86, filed 5/1/86 [4/1/86])

WAC 192-40-020 DEFINITIONS. The definitions set forth in this section shall apply throughout this chapter unless the context clearly requires otherwise.

(1) "Assistant commissioner" means the senior administrator for the training and employment analysis ((program services)) division of the employment security department.

(2) "Interested party" means an individual who participates in or applies for participation in a program administered under the JTPA, or a person or organization

which is directly or adversely affected by organizations or individuals operating programs under JTPA.

(3) "JTPA" means the Job Training Partnership Act of 1982, Public Law No. 97-300, as amended, codified as 29 U.S.C. 1501 et seq.

(4) "T((PS))EA" means the training and employment analysis ((program services)) division.

(5) "Provisions" means the Job Training Partnership Act provisions issued by the employment security department.

(6) "Reviewing officer" means the commissioner's review office ((reviewing officer or deputy reviewing officer who)) which acts as the commissioner's delegate((s)) in the review of ((the)) employment security adjudicative (adjudicatory) matters.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 1-86, filed 5/1/86 [4/1/86])

WAC 192-40-040 REVIEW OF LOCAL DECISIONS. Any person adversely affected by a local decision or by the failure of the responsible entity to comply with its responsibilities to hold a hearing and issue a decision may request review of the decision or inaction, as the case may be, by filing a petition with the "assistant commissioner."

(1) Any individual or organization may petition for review of a local level decision or lack thereof when:

(a) Applicable JTPA procedures have been exhausted; and

(b) A decision was not received within sixty days of the filing of the complaint, alleged adverse action, or grievance; or

(c) The decision received was unsatisfactory to an interested party.

(2) A petition for review will be regarded as filed on the date a written request is received by the assistant commissioner of the training and employment analysis ((program services)) division of the employment security department. Petitions must be filed within ten days after the date on which the local decision was mailed or within ten days from the date on which the complainant should have received the local decision. If the petition is mailed, it will be deemed filed with the addressee on the postmark date if it is properly addressed and has sufficient postage. The ((P))petition for review will be addressed to: Assistant Commissioner, Training and Employment Analysis ((Program Services)) Division, Employment Security Department, Mailstop KG-11, Olympia, Washington 98504.

(3) Within five days of any request from the assistant commissioner the local authority will transmit all records pertaining to the matter under review to the assistant commissioner.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending Order 1-86, filed 5/1/86 [4/1/86])

WAC 192-40-050 REVIEW OF LOCAL DECISIONS—FINALITY OF ASSISTANT COMMISSIONER DECISION. The review of local decisions shall be confined to the record under review and shall be limited to consideration only of those matters over which the assistant commissioner has jurisdiction. In the event that the record is incomplete, or otherwise provides insufficient information upon which to base a decision, the assistant commissioner may remand the matter to the responsible local authority for the taking of further evidence and issuance of a new decision based thereon, subject to further review, or should he or she be convinced that a fair hearing will not be provided by the local authority he or she may assign the case to be heard by an administrative law judge to be designated by the office of administrative hearings. In the latter event the administrative law judge shall conduct a hearing and issue a decision which will be deemed the decision of the local authority subject to review by the assistant commissioner in the same manner as any other local decision.

The decision of the assistant commissioner upon review of local decisions is a final agency action and is subject to review under RCW 34.((04.130))05.570.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending Order 1-86, filed 5/1/86 [4/1/86])

WAC 192-40-060 REVIEW OF DECISIONS—DELEGATION OF RESPONSIBILITY. In the interest of fairness, the assistant commissioner reserves the option to delegate the review procedure as described in WAC 192-40-050 to the ((reviewing officer)) commissioner's review office of the employment security department or other qualified legal authority. The decision of the delegated review authority is a final agency action and subject to review under RCW 34.04.130))05.570.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

AMENDATORY SECTION (Amending Order 1-86, filed 5/1/86 [4/1/86])

WAC 192-40-070 STATE LEVEL HEARING REQUEST. Any aggrieved party with a timely complaint, alleged adverse action, or grievance against the state administrative office for JTPA shall be provided a written description of the training and employment analysis ((program services)) division complaint procedures including notification of their right to file a complaint and instructions on how to file.

Any party aggrieved by an unresolved complaint, alleged adverse action, or grievance properly filed with the state administrative office for JTPA operations will be deemed to have filed a request for hearing unless the party has waived right to hearing.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending Order 1/86, filed 5/1/86 [4/1/86])

WAC 192-40-080 STATE LEVEL HEARING PROCEDURE. Upon receipt of a request for hearing, the training and employment analysis ((program services)) division will request ((notify)) the office of administrative hearings to conduct a hearing pursuant to 29 U.S.C. 1554 and 1577, except for complaints of discrimination filed pursuant to 42 U.S.C. 2000(d), et seq.

Advance written notice of the hearing will be provided by regular mail to all interested parties at least twenty days prior to the hearing to permit adequate preparation of the case. The notice will include:

(1) The time, date, and place of the hearing. Hearings shall be held at the regularly established hearing locations most convenient to the interested parties, or at the discretion of the presiding administrative law judge ((hearing officer)), by telephone;

(2) The name, address, and telephone number of the person to notify in the event it is not possible for the party or its legal counsel to attend the scheduled hearing;

(3) The hearing procedures, a statement of the issues, and any other information which would provide the party or its legal counsel with an understanding of the proceedings and contribute to the effective presentation of the party's case;

(4) An explanation that the party or its legal counsel may examine the case file prior to the hearing.

Any interested party may waive his/her right to notice either in writing or on the record.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 1-86, filed 5/1/86 [4/1/86])

WAC 192-40-090 STATE LEVEL DECISION BY OFFICE OF ADMINISTRATIVE HEARINGS. After affording the interested parties an opportunity for hearing on the matter, the presiding administrative law judge ((assigned by the office of administrative hearings)) shall issue his/her decision in the case. The decision shall be issued within 60 days of the initial filing of the request for hearing.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending Order 1-86, filed 5/1/86 [4/1/86])

WAC 192-40-100 REVIEW OF STATE LEVEL DECISION. When a request for review is made of a state level decision, a proceeding under WAC 192-40-070, the review shall be conducted by the ((reviewing officer)) commissioner's review office of the employment

security department. A request for such review must be directed to the ((reviewing officer)) commissioner's review office within twenty days of the issuance of the decision of the administrative law judge. Said review will be of the record prepared by the office of administrative hearings and will result in a decision in writing affirming, modifying, or reversing the decision of the administrative law judge, or in the event that the record is incomplete, or otherwise provides insufficient information upon which to pass a decision, the ((reviewing officer)) commissioner's review office may remand the matter to the office of administrative hearings for the taking of further evidence and the issuance of a new decision based thereon. The decision of the ((reviewing officer)) commissioner's review office shall be deemed a final state action subject to petition for judicial review pursuant to RCW 34.04.130.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

WSR 89-24-031
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed December 1, 1989, 1:28 p.m.]

Department of Licensing hereby withdraws WSR 89-23-042, filed on November 13, 1989, 8:05 a.m., repealing WAC 308-128B-060. Repealing WAC 308-128B-060, Inactive Escrow Officer License, will be filed at a later date.

Sydney W. Beckett
 Program Administrator

WSR 89-24-032
RULES COORDINATOR
DEPARTMENT OF NATURAL RESOURCES

[Filed December 1, 1989, 1:30 p.m.]

In accordance with RCW 34.05.310(3) the rules coordinator for the Department of Natural Resources is John DeMeyer, Room 201 Cherberg Building, Olympia, WA 98504, phone (206) 753-5308, 234-5308 scan.

James A. Stearns
 Supervisor

WSR 89-24-033
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed December 1, 1989, 2:17 p.m.]

Original Notice.

Title of Rule: WAC 388-86-00901 Kitsap Physicians Service—Sound Care Plan.

Purpose: To amend the rule to incorporate into the regulations that the present sound care plan is being expanded to Jefferson and Clallam counties.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: AFDC-R grant recipients and family independence program FIP-J and G enrollees residing in Kitsap, Mason, Clallam and Jefferson counties shall be enrolled in the Kitsap Physician Service—Sound Care Plan.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bobbe J. Andersen, Medical Assistance, 753-0529.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on January 9, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by January 9, 1990.

Date of Intended Adoption: January 29, 1990.

December 1, 1989

Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2554, filed 11/4/87)

WAC 388-86-00901 KITSAP PHYSICIANS SERVICE—SOUND CARE PLAN. (1) ((~~At~~)) The department shall enroll aid to families with dependent children (AFDC-R) grant recipients ((who live)) and family independence program (FIP-J and G) enrollees residing in Kitsap ((or)), Mason, Jefferson, or Clallam counties ((shall be enrolled)) in the Kitsap Physicians Service—Sound Care Plan (plan), except as provided in ((subsection (3))) subsections (4) and (5) of this section.

(2) The department may enroll additional program eligible groups with the agreement of the plan.

(3) Timely provision of services((The)) means a recipient shall have the right to receive medically necessary care without unreasonable delay.

((~~(3)~~)) (4) ((Exemptions and disenrollment: The following have the right to be exempt from enrollment in the plan or to disenroll from the plan:

((~~(4)~~)) Upon a client's request, the department may exempt clients, for whom medically necessary care((that)) is required, and the plan is ((obligated by contract)) contracted to provide but cannot ((be made reasonably)) make medically necessary care available. In making the exemption determination, consideration shall include, but not be limited to:

((~~(5)~~)) (a) Whether distance or transportation problems make it unreasonably difficult for the ((recipient)) client to obtain services; or

((~~(6)~~)) (b) Whether the absence of translators or of services accessible to disabled persons makes it unreasonably difficult for the ((recipient)) client to obtain services.

((~~(7)~~)) (5) Indians eligible under subsection (1) of this section and eligible to receive health services through the Indian Health Service ((Clinics)) may choose to enroll in the plan.

((4)) (6) ((Emergency: "Emergency" is defined as a situation in which medical services are immediately required to avoid placing an individual's health in serious jeopardy or to alleviate a condition manifesting itself by acute symptoms, including severe pain or discomfort, or active labor.)) Emergencies and emergency transportation services are exempt from the plan's routine medical care authorization procedures. Emergency defines a situation in which medical services are immediately required to avoid placing an individual's health in serious jeopardy or alleviate a condition manifesting itself by acute symptoms, including severe pain, discomfort, or active labor.

(a) The recipient is not responsible for determining, or for the cost of determining, if an emergency exists.

(b) If an emergency exists, the recipient is not financially responsible for any services rendered.

(c) If an emergency does not exist, and the plan will not authorize further services, the recipient is financially responsible for ((any)) further services received only if the recipient is informed ((of his/her)) and agrees, in writing, to the responsibility ((prior to the receipt of)) before receiving the services.

((5)) (7) ((Fair hearings:)) Any ((applicant or recipient)) client aggrieved by a decision of the plan or the department has the right to a fair hearing ((as provided in) under chapter 388-08 WAC.

(a) Except as provided in subdivision (b) and (c) of this subsection, a recipient shall exhaust the plan's grievance procedure ((prior to)) before requesting a fair hearing. The plan's grievance procedure shall result in a written decision stating the basis for the decision. The recipient has the right to request a fair hearing if the decision is adverse or the written decision is not received within thirty days from the date the plan received the grievance. The plan may be a party to the fair hearing.

(b) In any case ((in which urgently needed medical services are being denied)) where the plan denies a recipient ((by the plan)) urgently needed medical services, a recipient ((is)) need only ((required to)) provide a written grievance to the plan ((prior to)) before or ((at the time of)) when requesting a fair hearing.

(c) ((An applicant or recipient)) A client requesting exemption from enrollment in the plan is ((not)) required to file a ((formal grievance)) written request with the ((plan prior to requesting)) division of medical assistance of the department. If not satisfied with the department's decision, the client may request a fair hearing. The plan may be a party to ((any such)) the fair hearing.

((6)) (8) Each recipient enrolled in the plan shall have a primary care physician((s)) (PCP):

(a) ((All clients)) Recipients shall have an opportunity to choose a PCP from current plan providers(());

(b) The plan shall assign a PCP to ((those clients who do)) recipients not ((choose an enrolled)) choosing a participating provider(());

((7)) (c) ((A client)) Recipients shall have the right to change their PCP:

(i) One time during a twelve-month period for any reason(());

(ii) For ((any)) subsequent changes during the twelve-month period the ((client)) recipient shall first show good cause.

((8)) (d) When requesting a change in their PCP the ((client)) recipient shall notify the plan of the:

(i) ((The)) Desired change including the name of the new PCP(()); and

(ii) ((The)) Reason for the desired change.

((7)) (9) ((Second opinions:)) The ((client)) recipient shall have the right to a second opinion by another participating physician or specialist:

(a) When the ((client)) recipient needs more information as to the medical necessity of medical treatment recommended by the PCP(()); or

(b) If the ((client)) recipient believes ((that)) the PCP is not authorizing medically necessary care.

((8)) (10) ((Physician referral:)) When medically necessary, the PCP shall make a prompt referral to another participating physician or specialist.

((9)) (11) ((Program administration:)) The department may terminate enrollment of a recipient in the plan if the:

(a) Recipient loses eligibility for the plan; or

(b) Recipient requests disenrollment under the same considerations as subsection (4) of this section; or

(c) Plan requests a disenrollment of the recipient, in writing, and the:

(i) Plan establishes the recipient's behavior is:

(A) Inconsistent with the plan's rules and regulations, such as intentional misconduct; or

(B) Such that it becomes medically nonfeasible to safely or prudently provide medical services.

(ii) Plan's requested termination is approved by the director of the division of medical assistance or the director's designee. The division of medical assistance shall:

(A) Make a decision on the requested termination within fifteen days of the receipt of the request; and

(B) Notify the recipient ten days in advance of the effective date of disenrollment for any approved termination.

(12) The plan shall not request termination of a recipient solely due to an adverse change in the recipient's health.

((a)) (13) The plan shall appoint a medical director ((appointed by the plan ((shaft))) who:

((t)) (a) ((Be)) Is responsible for the plan's quality assurance program and shall review all plan grievances(()); and

((t)) (b) Furnishes the division of medical assistance with a copy of all written grievances and the plan's response to ((all written)) such grievances.

((t)) (14) On at least an annual basis, the department shall arrange for and the plan shall permit an independent, external review of the quality of recipient services provided or arranged by the plan ((for clients shall be conducted on an annual basis)).

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

**WSR 89-24-034
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Filed December 1, 1989, 2:19 p.m.]

Original Notice.

Title of Rule: WAC 388-82-010 Persons eligible for medical assistance; and 388-99-010 Persons eligible for medically needy assistance.

Purpose: To amend rules to include that an individual in a public institution is not eligible for Medicaid. To add that hospice clients with up to 300 percent of the SSI benefit cap are eligible as categorically needy.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Individuals in a public institution are ineligible for Medicaid. Clients eligible for and accepting of hospice care are eligible for categorically needy medical assistance if their gross income does not exceed the 300 percent SSI benefit cap.

Reasons Supporting Proposal: This rule is necessary to add coverage to hospice clients and clarify who is eligible in a public institution.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bobbe J. Andersen, Medical Assistance, 753-0529.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on January 9, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by January 9, 1990.

Date of Intended Adoption: January 29, 1990.

December 1, 1989
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2620, filed 4/15/88)

WAC 388-82-010 PERSONS ELIGIBLE FOR MEDICAL ASSISTANCE. Medical assistance is available to any ((individual)) categorically needy person who is ((categorically needy));

(1) ((Individuals)) Receiving or eligible to receive a cash assistance payment. Payment categories ((under which individuals)) a person may qualify for include:

(a) Aid to families with dependent children (AFDC);

(b) Supplemental Security Income (SSI);

(c) State supplemental payment. The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for ((medicaid)) categorically needy medical assistance; and

(d) ((Individuals)) A person under ((age)) twenty-one years of age;

(i) Whose income is less than the one-person AFDC standard and ((who are)) is in:

((f(t))) (A) Foster care; or

((f(t))) (B) Subsidized adoption; or

((f(t))) (C) A skilled nursing home, intermediate care facility, or intermediate care facility for mentally retarded (ICF/MR); or

((f(t))) (D) An approved inpatient psychiatric ((facilities)) facility.

(ii) Meeting the eligibility requirements under WAC 388-83-033.

(e) Family independence program (FIP).

(2) A pregnant woman:

(a) Who would be eligible for AFDC if her child were born and ((living)) residing with her. In determining income eligibility for Medicaid, the department shall increase the number in the household by one before comparing the pregnant woman's income to the AFDC payment standard; or

(b) Meeting the eligibility requirements under WAC 388-83-032.

((f)) Family independence program;)

((f(t))) (3) ((Individuals)) In a medical ((facilities)) facility and:

(a) Who would be eligible for cash assistance if ((they were)) the person was not institutionalized. This includes all categorically needy groups; or

(b) ((Who are)) SSI categorically related and would not be eligible for cash assistance if they were not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap. This includes only aged, blind, and disabled groups.

((f(t))) (4) ((Individuals who would)) Not ((receive)) receiving cash assistance because of special provisions as defined in WAC 388-83-028.

(5) Not an inmate of a public institution.

(6) Sixty-four years of age or older, a patient in an institution for mental diseases, and eligible under subsection (3)(a) and (b) of this section.

(7) An individual:

(a) SSI categorically related;

(b) With gross income in excess of the total of the SSI and state supplement rate, but less than three hundred percent of the SSI federal benefit rate; and

(c) Eligible for, and accepting of, hospice services as described under WAC 388-86-047.

AMENDATORY SECTION (Amending Order 2722, filed 11/7/88)

WAC 388-99-010 PERSONS ELIGIBLE FOR MEDICALLY NEEDY ASSISTANCE. The department shall determine as medically needy a resident of the state of Washington who meets the income

and resource ((standards)) levels in WAC 388-99-020 and 388-99-035 and is:

(1) Categorically needy as defined under WAC 388-82-010 but for income and/or resources; or

(2) The aged, blind, or disabled ineligible spouse of an SSI beneficiary ((if:))

((The ineligible spouse is aged, blind, or disabled)); ((and))

((The total income of the SSI beneficiary is excluded)); or

(3) A child under ((seven)) eight years of age, born after September 30, 1983((:)); or

(4) A pregnant woman who the department considers categorically needy but for income((:)) and resource((, and/or deprivation)) requirements. For the purposes of this subsection, the department shall increase the number in the household by one before comparing the pregnant woman's:

(a) ((The pregnant woman's)) Income to the medically needy income level in WAC 388-99-020; and

(b) ((The pregnant woman's)) Resources to the resource level in WAC 388-99-035.

(5) Not an inmate of a public institution.

WSR 89-24-035

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2906—Filed December 1, 1989, 2:21 p.m.]

Date of Adoption: December 1, 1989.

Purpose: To implement state law on processing medical applications for pregnant women.

Citation of Existing Rules Affected by this Order: Amending WAC 388-84-110.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-21-095 on October 18, 1989.

Effective Date of Rule: Thirty-one days after filing.

December 1, 1989

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2409, filed 8/12/86)

WAC 388-84-110 APPLICATION—DISPOSITION. (1) ((Timely determination standards are)) The department shall act on a request for medical assistance within:

(a) Sixty days for applicants based on disability((:));

(b) Fifteen working days for a pregnant woman, including an interview within five working days; and

(c) Forty-five days for all other categories((:)).

((f(t))) (2) The department shall:

(a) Not use the standards for timely processing of applications ((shall not be used)) as a waiting period for determining eligibility((:)); and

(b) Act on each application ((shall be acted upon)) as quickly as possible.

((f(t))) (3) ((Each application shall be acted upon within the standards of subsection (1) of this section.)) When ((ESO)) the department has otherwise acted promptly at all stages of the application process, the department may extend the time standard ((may be extended)) if the ((ESO)) department cannot reach a timely eligibility decision because the:

(a) ((The)) Applicant or an examining physician delays or fails to provide information or fails to take a required action; or

(b) ((The)) Eligibility determination depends upon out-of-state or intercity correspondence and no other verification is available to establish the eligibility factor at issue; or

(c) ((The)) Occurrence of an administrative or other emergency is beyond the control of the ((ESO)) department. Administrative burdens do not justify delayed processing of applications; or

(d) Eligibility determination depends on receipt of medical expense documentation under WAC 388-99-030 and 388-100-020.

((3)) (4) For cash assistance except consolidated emergency assistance program (CEAP), approval of the medical assistance is concurrent.

((4)) (5) The department shall notify applicants for medical assistance ((will be notified)) of departmental action by ((means of a notification of eligibility)) letter.

((5)) (6) Approval, denial, or withdrawal of the application for medical assistance, medical care services, or the limited casualty program will follow cash assistance standards and criteria in chapter 388-38 WAC, with the exception of WAC 388-38-110. For time limits for disposal of a medical application, subsections (1), (2) and ((2)) (3) of this section shall apply.

((6)) (7) The department may rescind a denial and approve assistance based on a denied application when:

(a) The applicant, within thirty days from the date of denial, provides additional information needed to establish eligibility((;)); or

(b) Following this thirty-day period, the applicant:

(i) ((The applicant)) Timely requests a fair hearing to appeal the denial; and

(ii) ((The applicant)) Provides the additional information needed to establish eligibility.

AMENDATORY SECTION (Amending Order 2132, filed 8/3/84)

WAC 388-92-025 ((COMPUTATION)) FINANCIAL RESPONSIBILITY OF ((AVAILABLE INCOME AND RESOURCES)) RELATIVES. (1) ((Total income of a beneficiary of supplemental security income is not considered available)) In determining SSI-related eligibility(:

(2) Financial responsibility of spouses and parents:

((a))), the department shall consider income and resources ((are considered)) jointly for:

(a) Spouses who ((live together)) reside in ((a common)) the same household; and

(b) The blind or disabled child or children who ((live)) reside with their ((parent(s))) parent or parents.

(2) When computing available income for a family of three or more, the department shall apply the relative responsibility requirement of the appropriate cash assistance program. The department shall limit relative responsibility to one spouse for the other spouse and the parent or parents for the minor child or children.

(3) The department shall consider the financial responsibility of spouses as follows:

(a) When the spouse of an SSI-related applicant is ineligible or does not apply, the department shall apply the exclusions under WAC 388-92-035 (1) and (3) to the spouse's income in determining the amount to be deemed to the applicant. If the remaining income of the ineligible spouse exceeds the monthly state supplement benefit standard, the department shall deem the remaining income to the applicant; and

(b) If both spouses apply or are eligible as aged, blind, or disabled and cease to ((live together their)) reside in the same household, the department shall consider the spouses' income and resources ((are considered)) available to each other for the time periods specified ((below)). After the appropriate time period, the department shall consider available only the income and resources ((that are actually contributed by)) one spouse contributes to the other ((are considered available)) spouse.

(i) If spouses cease to ((live together)) reside in the same household because of ((the)) institutionalization of one spouse((=)), the department shall consider:

(A) ((Consider their)) The institutionalized spouse's income and resources under chapter 388-95 WAC; and

(B) The community spouse's:

(I) Income as available to each other through the month in which they cease to ((live together)) reside in the same household. ((Mutual consideration of)) The department shall consider the income ((ceases with)) of each spouse as separate beginning the first of the month after the ((month in which separation occurs.)) spouse is institutionalized;

((B)) (II) ((Consider their)) Resources as available to each other for the month ((during which they)) the spouses cease to ((live together)) reside in the same household and ((the)) for six months following that month.

(ii) If spouses cease to ((live together)) reside in the same household for any reason other than institutionalization of one spouse, the department shall consider

[Order 2907—Filed December 1, 1989, 2:25 p.m.]

WSR 89-24-036

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

Date of Adoption: December 1, 1989.

Purpose: To expand subsection (13) of WAC 388-92-045 to specify certain federal statutes. To separate SSI-related income exclusions and exemptions from financial responsibility of relatives into a new WAC 388-92-036. Citation of Existing Rules Affected by this Order: Amending WAC 388-92-025 and 388-92-045.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-21-034 on October 11, 1989.

Effective Date of Rule: Thirty-one days after filing.

December 1, 1989

Leslie F. James, Director
Administrative Services

((their)) the spouses' income and resources ((as)) available to each other for the month ((during which they)) the spouses cease to ((live together)) reside in the same household and ((the)) for six months following that month. If the mutual consideration of both spouses' income and resources causes the ((individuals)) spouses to lose eligibility as a couple, the ((agency will)) department shall determine if ((an individual)) either spouse is eligible in accordance with subsection (3)(c) of this section.

(c) If the spouses cease to reside in the same household, and only one spouse in a couple applies or is eligible, or both spouses apply and are not eligible as a couple, ((and they cease to live together)) the department shall consider only the income and resources ((of)) the ineligible spouse ((that are actually contributed)) contributes to the eligible spouse beginning ((with)) the month after the ((month in which they cease to live together.)) spouses separate;

(d) When both spouses are eligible and institutionalized(:

((t))), the department shall consider income and resources ((are considered jointly)) separately even if ((they)) the spouses share the same room(:

((ii)) Income and resources are considered separately if they don't share the same room.); and

(e) When only one spouse is eligible and both are institutionalized, the department shall consider only the income and resources ((of)) the ineligible spouse ((that are actually contributed)) contributes to the eligible spouse, even if they share the same room.

((3)) When computing available income for a family of three or more the relative responsibility requirement of the appropriate cash assistance program shall be applied, except that relative responsibility shall be limited to spouse for spouse and parent for child.)

(4) The department shall consider the financial responsibility of the parent or parents as follows:

(a) For SSI-related individuals, ((age)) eighteen to twenty-one years of age, the department shall not consider the parent or parents' income ((is not deemed)) available(:) unless contributed; and

((5)) (b) For SSI-related individuals seventeen years of age and under ((age eighteen)), the department shall consider the parent or parents' income ((is deemed)) available when ((living)) the individual resides in the same household.

((6)) (5) ((When the spouse of an SSI related applicant is ineligible or does not apply, the exclusions in subsections (7) and (9) of this section, shall be applied to his/her income in determining the amount to be deemed to the applicant. If the remaining income of the ineligible spouse exceeds the monthly state supplement benefit standard all the remaining income shall be deemed to the applicant.

(7) Exclusions from income. The following shall be excluded sequentially from income:

(a) Any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual or spouse;

(b) State public assistance based on financial need;

(c) Any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational institution;

(d) Income that is not reasonably anticipated, or received infrequently or irregularly, if such income does not exceed twenty dollars per month if unearned, or ten dollars per month if earned;

(e) Any amounts received for the foster care of a child, who is not an eligible individual, but who is living in the same house as such individual and was placed in such home by a public or nonprofit private child placement or child-care agency;

(f) One third of any payment for child support received from an absent parent will be excluded;

(g) The first twenty dollars per month of earned or unearned income, not otherwise excluded in subsection (7)(a) through (f) of this section, for a person at home. The exclusion is considered only once for a husband and wife. There is no exclusion on income which is paid on the basis of need of the eligible individual, such as VA pension and cash from private charitable organizations;

(h) Tax exempt payments received by Alaska natives under the Alaska Native Claims Settlement Act;

(i) Tax rebates or special payments excluded by other statutes. When necessary these exclusions will be publicized by numbered memoranda from the state office;

(j) Compensation provided to volunteers in ACTION programs established by Public Law 93-113, the Domestic Volunteer Service Act of 1973;

(k) When an ineligible minor is in the household of an SSI applicant, an amount will be excluded for such child's needs. The exclusions will be the difference between the SSI couple cash benefit and the SSI individual cash benefit;

(l) Veteran's benefits, only the portion of the payment which is attributable to the veteran is counted as income in determining eligibility for Medicaid.

(i) The veteran's aid and attendance/housebound allowance is to meet the cost of unusual medical care and is excluded in determining eligibility for Medicaid.

For institutionalized individuals, the amount subsequently is considered in the cost of institutional care.

(ii) The portion attributable to the dependent is counted as income to the dependent.

(m) Current recipients who become ineligible for SSI benefits and/or state supplementary payments after April 1, 1977, solely because of OASDI cost of living benefit increases shall remain categorically eligible for medical assistance (MA). Any subsequent OASDI cost of living benefit increase shall be disregarded for eligibility. For institutionalized recipients, the amount subsequently is considered in the cost of institutional care. This disregard does not apply to:

(i) New applicants (i.e., who were not receiving SSI/SSP prior to increase).

(ii) Persons who are not actually receiving SSI/SSP payments for some other reason.

(iii) Persons who would have received SSI/SSP if they had applied.

(iv) Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility.

(n) A fee charged by a guardian to reimburse himself or herself for services provided is not considered available to the individual and is not treated as income.

(o) Income received by an ineligible or nonapplying spouse from a governmental agency for services provided to an eligible recipient (e.g. chore services).

(p) An ineligible or nonapplying individual under the age of twenty-one who is a student regularly attending a school, college or university or pursuing a course of vocational or technical training designed to prepare him for gainful employment will have all earned income excluded unless that income is actually contributed to the applicant.

(q) Earned income exclusions for SSI-related individuals shall be the first sixty-five dollars per month of earned income not excluded according to subsection (7) of this section, plus one-half of the remainder.

(r) In mixed households, where more than one assistance unit exists, determine income for the AFDC-related assistance unit according to AFDC grant regulations. The department shall determine income for FIP or AFDC-related assistance unit according to FIP or AFDC grant regulations, where more than one assistance unit exists, limiting relative responsibility to subsection (2) of this section.

NEW SECTION

WAC 388-92-036 SSI-RELATED INCOME EXCLUSIONS/EXEMPTIONS. (1) The department shall exclude the following from income in the order listed:

(a) Any amount a client receives from any public agency as a return or refund of taxes paid on real property or on food purchased by such client or spouse;

(b) State public assistance and supplemental security income (SSI) based on financial need;

(c) Any portion of any grant, scholarship, or fellowship received by a client for use in paying the cost of tuition and fees at any educational institution;

(d) Income that a client does not reasonably anticipate, or may receive infrequently or irregularly, and such income does not exceed twenty dollars per month if unearned, or ten dollars per month if earned;

(e) Any amounts a client receives for the foster care of a child who lives in the same household, if the child is not eligible and was placed in such home by a public or nonprofit private child-placement or child-care agency;

(f) One-third of any payment for child support an individual receives from an absent parent;

(g) The first twenty dollars per month of earned or unearned income, not otherwise excluded in subsection (1)(a) through (f) of this section, for a client at home. The department shall consider the exclusion only once for a husband and wife. The department shall apply no exclusion on income paid on the basis of an eligible individual needs, such as VA pension and cash from private charitable organizations;

(h) Tax exempt payments Alaska natives receive under the Alaska Native Claims Settlement Act;

(i) Tax rebates or special payments excluded by other statutes. When necessary, the department shall publicize these exclusions;

(j) Compensation provided to volunteers in ACTION programs established by Public Law 93-113, the Domestic Volunteer Service Act of 1973;

(k) An amount to meet the needs of an ineligible minor child residing in the household of an SSI applicant. The exclusion is the difference between the SSI couple cash benefit and the SSI individual cash benefit;

(l) The following portions of veteran's benefits:

(i) The veteran's aid and attendance/housebound allowance. For institutionalized clients, the department shall consider the amount subsequently in the cost of the client's institutional care; and

(ii) The portion attributable to the veteran's dependent.

(m) Title II Social Security Administration benefits:

(i) The department shall determine current client eligibility for categorically needy medical assistance under WAC 388-82-115(4), including all Title II cost of living adjustment (COLA) benefit increases received:

(A) By the client since termination from SSI/SSP; or

(B) By the client's spouse and/or other financially responsible family member living in the same household during the time period under subsection (m)(i) of this section; and

(ii) The department shall consider the total of the COLA benefit increases and the Title II Social Security Administration benefits in the cost of the institutionalized client's care.

(n) A reimbursable fee a guardian charges for services provided;

(o) Income an ineligible or nonapplying spouse receives from a governmental agency for services provided to an eligible client (e.g. chore services);

(p) Certain cash payments a client receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;

(q) Restitution payment to a civilian of Japanese or Aleut ancestry under P.L. 100-383;

(r) The amount of the expenses directly related to a client's impairment that allows the permanently and totally disabled client to continue to work;

(s) The amount of the blindness-related work expenses of a blind client; and

(t) Interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement which are left to accumulate and become part of the separately identified burial funds set aside on or after November 1, 1982.

(2) Unless income is contributed to the applicant, the department shall exclude all earned income of an ineligible or nonapplying individual twenty years of age and under who is a student regularly attending a school, college or university, or pursuing a vocational or technical training designed to prepare the student for gainful employment.

(3) For the SSI-related individual, the department shall exclude the first sixty-five dollars per month of earned income not excluded according to subsection (1) of this section, plus one-half of the remainder.

AMENDATORY SECTION (Amending Order 2604, filed 3/2/88)

WAC 388-92-045 EXCLUDED RESOURCES. ((Applicants or recipients may transfer or exchange exempt resources. Exclude cash received from the sale of an exempt resource to the extent that it is used to replace or reinvest in another exempt resource within three months. Consider any remaining portion a nonexempt resource. In determining the value of resources)) The department shall exclude the following resources:

- (1) A home(:).
 - (a) A home ((is)) means any shelter:
 - (i) In which the ((client(s))) client or clients has ownership interest; and
 - (ii) ((Which is)) Used by the ((client(s))) client or clients as the principal place of residence. The department shall consider only one home ((may be)) the principal place of residence.
 - (b) ((Absences)) Client or clients absence from the home shall not affect the home exclusion. ((It continues to be)) The home remains the principal place of residence as long as:
 - (i) The ((individual)) client or clients intends to return home. The department shall accept the client's statement of intent without challenge; or
 - (ii) ((The home is used by)) A spouse or dependent relative uses the home during the ((individual)) client's absence. ((Dependency may be)) The department shall consider an individual a dependent relative when such individual is either ((financial)) financially or ((medical)) medically dependent on the client. The department shall accept the client's or dependent relative's written allegation of dependency or relationship ((shall be accepted)) unless ((there is)) the department has reason to question it.
 - (c) The department shall exclude the client's proceeds from the sale of the excluded home ((shall be excluded to the extent they)) providing the proceeds 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)).
 - (d) The department shall evaluate transfers of the home by an institutional client under WAC 388-95-395.
 - (2) Household goods and personal effects.
 - (3) ((Automobile(s))) Automobile or automobiles.
 - (a) ((Totally)) The department shall 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)) client; or
 - (iv) Necessary ((because of)) due to climate, terrain, distance, or similar factors to provide ((necessary)) the client transportation to perform essential daily activities.
 - (b) The department shall:
 - (i) Exclude one automobile to the extent its current market value does not exceed four thousand five hundred dollars(:);

- (ii) Count any excess ((to be counted)) against the resource limit(:); and
- (iii) Exclude an automobile ((may be excluded)) under this subdivision only if no automobile is excluded under subsection (3)(a) of this ((subsection)) section.
- (c) The department shall treat the client's ownership of other automobiles ((shall be treated)) as nonexempt resources and ((counted towards)) count the client's automobile equity value toward the resource limit ((to the extent of their equity value)).
- (4) Trade or business property.
 - (a) The department shall exclude:
 - (i) Property of a trade or business which is essential to ((the means of)) self-support; ((however, it shall not include)) and
 - (ii) Liquid resources as defined ((in)) under WAC 388-92-005 even though such liquid resource may ((be producing)) produce income.
 - (b) 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.; and
 - (c) 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)). The department shall exclude nonbusiness property essential to the ((means of)) client's self-support. This exclusion shall include:
 - (a) Nonliquid (see WAC 388-92-005), nonbusiness property if ((it is relied upon by)) the individual:
 - (i) Relies on the nonbusiness property as a significant factor in producing income on which ((he)) the client can live(:); or ((is used))
 - (ii) Uses the nonbusiness property 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(:); and
 - (d) 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)) is not used for self support functions.
 - (6) Resources of a blind or disabled individual ((which are)). The department shall exclude resources necessary to fulfill an approved plan for ((achieving)) a client to achieve self-support ((for so)) as long as such plan remains in effect.
 - (7) Alaska Native Claims Settlement Act stock. The department shall exclude 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)) under the Alaska Native Claims Settlement Act.
 - (8) Life insurance(:);

(a) The department shall exclude the total cash surrender value if the total face value of the policy or policies held by each individual is one thousand five hundred dollars or less ((the total cash surrender value shall be excluded)).

(b) The cash surrender value applies to the resource limit if the face value of ((policy(ies))) policy or policies held by each individual is over one thousand five hundred dollars ((there shall be no exclusion, cash surrender value must be applied to resource limitations)).

(c) When determining total face value in subdivision (a) of this subsection, the department shall exclude term or burial insurance with no cash surrender value ((shall be excluded in determining total face value in (a) of this subsection)).

(9) Restricted ((ownership:)) allotted land. The department shall exclude restricted allotted land owned by an enrolled tribal member and spouse, if ((any, of an Indian tribe)) married, if such land cannot be sold, transferred, or otherwise disposed of without permission of other individuals, ((his)) the tribe or an agency of the federal government.

(10) Insurance settlements(:). The department shall exclude cash ((received)) the client receives from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., ((shall be excluded as a resource provided)) providing the client uses the total amount of the cash ((is used)) to repair or replace such excluded resource within nine months ((that)). The department may extend the nine-month period ((may be extended)) based on circumstances beyond the control of the applicant to a maximum of nine additional months. The department shall consider any ((such)) cash not ((so)) used within ((such)) the time period((s shall be considered)) as an available resource.

(11) Burial spaces. ((a))) The department shall exclude the value of burial spaces for the ((individual)) client, the ((individual)) client's spouse, or any member of the ((individual)) client's immediate family.

((b))) (a) Burial spaces shall include conventional gravesites, crypts, mausoleums, urns, and other repositories ((which are)) customarily and traditionally used for the remains of deceased persons.

((e))) (b) For purposes of this subsection immediate family means ((an individual)) a client's minor and adult children, including adopted children and step-children; ((an individual)) a client's brothers, sisters, parents, adoptive parents, and the spouses of those individuals. The department shall consider neither dependency nor living-in-the-same-household ((will be a)) as factors in determining whether a person is an immediate family member.

(12) Burial funds(:).

(a) ((Of the)) Funds specifically set aside for the burial arrangements of ((an individual)) a client or the ((individual)) client's spouse ((exclude only an amount which may)) not to exceed one thousand five hundred dollars for each spouse. The department shall count burial funds in excess of this limit ((shall be counted)) toward((s)) the resource limit in WAC 388-92-050.

(b) ((This exclusion 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))) The department shall require funds set aside for burial expenses ((must)) be separately ((identifiable)) identified and designated as set aside for burial. ((Designation)) The department may ((be used to)) exclude designated burial funds retroactively back to the first day of the month in which the individual intended the funds to be set aside for burial or to November 1, 1982, whichever is later.

((d))) (c) Funds set aside for burial ((includes)) include revocable burial contracts, burial trusts, ((or)) other burial arrangements, or any other separately identifiable ((fund which is)) resources the individual clearly ((designated)) designates as set aside for the individual's (or spouse's, if any) burial expenses.

((e))) (d) The department shall reduce the one thousand five hundred dollars exclusion ((shall be reduced)) by:

(i) The face value of the client's insurance policies on the life of an individual owned by the individual or spouse if the policies have been excluded as provided in subsection (8) of this section; and

(ii) Amounts in an irrevocable trust.

((f))) (e) The department shall exclude interest earned on excluded burial funds and appreciation on the value of excluded burial arrangements ((are excluded from resources)) if the excluded interest and appreciation are left to accumulate and become ((a)) part of the separately ((identifiable)) identified burial fund.

((g))) (f) ((f)) When used for other purposes, the department shall consider 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) shall be reduced by an amount equal to the amount of burial funds, interest or appreciated value used for other purpose)) as an available resource if, when added to other nonexempt resources, the total exceeds the resource limit.

(13) Other resources excluded by federal statute.

(14) Retroactive payments(:). The department shall exclude retroactive SSI or OASDI payments from resources:

(a) For six months following the month of receipt(:) this exclusion applies to:

((a))) (i) Payments the client received ((on or after)) from October 1, 1984(:) through September 30, 1987;

((b))) (ii) Payments received by the ((individual)) client, spouse, and/or any other person whose income ((is considered)) the department considers available to meet the applicant's or recipient's needs(:);

((c))) (iii) SSI payments made to the client for benefits due for a month prior to the month of payment(:);

((d))) (iv) OASDI payments made to the client for benefits due for a month that is two or more months prior to the month of payment(:); and

((e)) (v) Payments that remain in the form of cash, checking or saving accounts; this exclusion shall not apply once the retroactive payment has been converted to any other form.

(b) For nine months following the month of receipt if:

- (i) Subsection (1)(a)(ii), (iii), (iv), and (v) of this section is met; and

(ii) The payment is received during the period beginning October 1, 1987, and ending September 30, 1989.

(15) Payments for medical or social services. The department shall exclude, from resources for the one calendar month following the month of receipt, certain cash payments an SSI individual receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services.

(16) Restitution to civilians relocated and interned during war time. The department shall exclude payments to persons of Japanese or Aleut ancestry under P.L. 100-383.

**WSR 89-24-037
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 2908—Filed December 1, 1989, 2:27 p.m.]

Date of Adoption: December 1, 1989.

Purpose: To redefine the incapacity criteria needed to qualify for treatment services under the Alcoholism and Drug Addiction Treatment and Support Act (ADATSA).

Citation of Existing Rules Affected by this Order: Amending WAC 388-40-050.

Statutory Authority for Adoption: Chapter 18, Laws of 1989 1st ex. sess.

Pursuant to notice filed as WSR 89-21-091 on October 18, 1989.

Effective Date of Rule: Thirty-one days after filing.
December 1, 1989

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2851, filed 8/29/89, effective 9/29/89)

WAC 388-40-050 INCAPACITY REQUIREMENTS FOR ADATSA TREATMENT. (1) ((If otherwise eligible,)) The department may grant ADATSA treatment services, within the current appropriation, ((may be granted)) to an alcoholic or drug addict, if otherwise eligible, whose chemical dependency is severe enough to render the applicant incapable of gainful employment.

(2) In order to qualify for ADATSA treatment services, an applicant shall:

(a) Meet the criteria for Psychoactive Substance Dependence In the Diagnostic and Statistical Manual of Mental Disorders (third edition revised), published by the American Psychiatric Association, ((also)) referred

to below as the DSM III-R, for a psychoactive substance class other than nicotine, either mild, moderate, or severe;

(b) Be incapacitated and unable to work. Incapacity shall exist if the applicant meets one or more of the following:

(i) ((Is)) Currently pregnant or up to two months post partum; or

((Has been determined incapacitated for the purpose of eligibility for ADATSA shelter within the last six months)) Diagnosed as at least moderately psychoactive substance dependent and referred for treatment by child protective services; or

((Currently meets the DSM III-R criteria for severe psychoactive substance dependence and at least one of the following occurred at least thirty-six months before application or twelve months for cocaine dependence:

(A) Diagnosis of severe psychoactive substance dependence by a department-approved chemical dependency treatment program, department designated chemical dependency assessment center, or department-approved DWI assessment center;

(B) Admission to a department-approved alcohol/drug treatment program;

(C) Admission to a department-approved detoxification program; or

((Two or more arrests for driving while intoxicated or actual physical control)) Diagnosed as severely psychoactive substance dependent and currently an intravenous drug user; or

((Diagnosed as severely psychoactive substance dependent and has a prior diagnosis of severe psychoactive substance dependency by an assessment center or at least one prior admission to a department-approved alcohol/drug treatment or detoxification program; or

((Diagnosed as severely psychoactive substance dependent and has had two or more arrests for offenses directly related to the chemical dependency; or

((Determined incapacitated for the purpose of eligibility for ADATSA shelter within the past six months; or

((Lost two or more jobs during the last six months due to)) as a direct result of chemical dependency; or

((vii))) ((viii)) ((Has been)) Admitted to a department-approved outpatient treatment program during the last six months and the outpatient treatment provider certifies the treatment recipient is not benefiting from outpatient treatment and needs more intensive chemical dependency treatment services.

(3) Notwithstanding subsection (2) of this section, an applicant meeting the following criteria shall not be eligible for ADATSA treatment when the applicant:

(a) Is not clearly diagnosed as currently dependent on psychoactive substances other than nicotine; or

(b) Has abstained from alcohol and drug use for at least the last ninety days, excluding days spent while incarcerated; or

(c) Has ((been)) been gainfully employed in a job in the competitive labor market at any time during the last thirty days. "Gainfully employed" means performing in a regular and predictable manner an activity for pay or

profit. Gainful employment shall not include work in a department-approved sheltered workshop or sporadic or part-time work, if the individual, due to functional limitation, is unable to compete with unimpaired workers in the same job.

(4) A current recipient of ADATSA treatment services successfully participating in outpatient treatment shall ((continue to)) be considered ((to be)) incapacitated through completion of planned treatment, even if the recipient:

- (a) Becomes employed((;));
- (b) Abstains from alcohol or drug use((;)); or
- (c) Has full or partial remission of psychoactive substance abuse dependence.

(5) ((~~Incapacity based on alcoholism or drug addiction shall be determined by~~) A department designated chemical dependency assessment center shall determine incapacity based on alcoholism or drug addiction. The assessment center is the department's sole source of medical evidence required for the diagnosis and evaluation of alcoholism/drug addiction and its effects on employability. ~~The department shall:~~

(a) ((The department shall)) Require ((such an)) a current assessment, in writing, for all ADATSA applicants((;)); and

(b) Pay the costs of assessments needed to determine eligibility ((shall be paid by the department)).

**WSR 89-24-038
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**
[Order 2909—Filed December 1, 1989, 2:28 p.m.]

Date of Adoption: December 1, 1989.

Purpose: To change the time a person may select a provider from thirty to twenty days. To delete that the restriction applies to all persons of an assistance unit.

Citation of Existing Rules Affected by this Order: Amending WAC 388-86-008.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-21-094 on October 18, 1989.

Effective Date of Rule: Thirty-one days after filing.

December 1, 1989
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2220, filed 4/4/85)

WAC 388-86-008 ((PATIENT)) RECIPIENT OVERUTILIZATION. (1) Whenever payment records and other information indicate that recipient ((utilization)) use of medical assistance is excessive or inappropriate ((with reference to medical need)), the department may require ((an individual)) a recipient to ((designate)) select a primary physician ((and/or)), a single pharmacy, or both for exclusive provider service in an effort to:

- (a) Protect the ((individual)) recipient's health and safety;
- (b) Provide continuity of medical care;
- (c) Avoid duplication of service by providers;
- (d) Avoid inappropriate or unnecessary ((utilization)) use of medical assistance as defined by community practices and standards;
- (e) Avoid excessive ((utilization)) use of prescription medications.

Excessive ((utilization)) use of prescription medications ((will)) shall be determined from published current medical and pharmacological references to include Physicians' Desk Reference published by Medical Economics Company, Oradell, New Jersey 07649; or Facts and Comparisons published by Facts and Comparisons, Inc., 12011 Marine Avenue, Suite 220, St. Louis, ((Mo)) MO 63141; or The Pharmacological Basis of Therapeutics published by Macmillan Publishing Co., 866 Third Avenue, New York, NY 10022.

(2) The ((individual will be given)) department shall provide the recipient with written notice of ((his/her)) the recipient's excessive or inappropriate ((utilization and will be requested to)) use of medical assistance. The notice shall state that:

(a) The recipient shall select, in writing, a single physician ((and/or)), a pharmacy, or both within ((thirty)) twenty days((. The notice will include the individual's)) from receipt of the notice;

(b) The recipient shall have the right to request a fair hearing within ninety days if ((he/she)) the recipient disagrees with the department's action((. The notice will also advise the individual that));

(c) Failure to cooperate in ((this procedure will necessitate)) choosing a doctor or pharmacy shall cause the department ((designating a physician and/or pharmacy for the individual or redirecting)) to redirect the ((individual)) recipient's medical coupons to the community service office (CSO) until ((selection of)) the recipient selects a physician ((and/or)), a pharmacy ((is made)), or both;

(d) The department shall issue medical coupons ((issued to the individuals will be)) imprinted with the message "RESTRICTED" to facilitate identification by providers. ((This restriction will be extended to all individuals listed on the "RESTRICTED" coupons.))

(3) After ((an individual has selected)) the department confirms the selection of a physician ((and)), a pharmacy ((and the selections have been confirmed by the department)), or both, ((a)) the recipient may not change ((of)) physician ((or)), pharmacy ((may not be requested)), or both for a ((minimum)) period of one hundred eighty days with the following exceptions:

(a) If the ((individual)) recipient moves to a new residence ((which would be considered)) outside the normal service area of the selected physician ((and)), pharmacy, ((he/she)), or both, the recipient may ((request to designate)) choose different providers in the area of ((his/her)) the recipient's new residence((;)); or

(b) Whenever the selected physician ((or)), pharmacy, or both refuse(s) to continue as a designated provider, the ((individual will be notified that he/she has thirty days)) department shall notify the recipient to ((select))

choose, in writing, within twenty days a new physician ((or)), pharmacy, or both.

(4) The department shall:

(a) Monitor medical services ((received by)) the restricted ((individuals will be monitored)) recipients receive; and

(b) Deny payment for services and prescriptions ((denied)) unless authorized by the ((selected designated)) chosen physician. Providers may bill recipients for ((these)) denied services.

(5) In the event of a bona fide emergency, ((the individual may be seen by)) a physician other than the one selected may see the recipient. The primary physician may also refer the ((individual)) recipient to a specialist when necessary.

(6) ((When)) After the ((individual has been restricted)) department has restricted a recipient under the provisions of this section for a period of two years, the department ((will)) shall conduct a review of that ((person)) recipient's medical ((service utilization)) usage to determine whether the restriction should be terminated. The review ((will)) shall include contact with the primary physician for comment and recommendation. The department will then determine whether the ((individual)) recipient shall:

(a) Remain restricted, with an annual review thereafter; or

(b) ((Have the)) Be released from restriction ((terminated)) and be ((subject to periodic review of medical service utilization. If utilization is subsequently determined to be)) reviewed in six months. If the department again determines the recipient's medical use is excessive or inappropriate, the ((individual)) department may again ((be restricted)) restrict the recipient under the provisions of this section.

**WSR 89-24-039
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 2910—Filed December 1, 1989, 2:29 p.m.]

Date of Adoption: December 1, 1989.

Purpose: To incorporate the qualified Medicare beneficiaries income raise to 90 percent of the federal poverty level as required by federal law.

Citation of Existing Rules Affected by this Order: Amending WAC 388-82-140.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-21-093 on October 18, 1989.

Effective Date of Rule: Thirty-one days after filing.

December 1, 1989
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2798, filed 5/17/89)

WAC 388-82-140 **QUALIFIED MEDICARE BENEFICIARIES ELIGIBLE FOR MEDICARE COST SHARING.** The department shall provide Medicare cost sharing under WAC 388-81-060(2) for an individual:

(1) Meeting the general nonfinancial requirements under chapter 388-83 WAC; and

(2) Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act; and

(3) Having resources not exceeding twice the maximum supplemental security income (SSI) resource limits under chapter 388-92 WAC; and

(4) Having a total countable family income, as determined under chapter 388-92 WAC, not exceeding ((eighty-five)) ninety percent of the poverty income guidelines as published and updated by the secretary of health and human services. ((Eighty-five)) Ninety percent of the 1989 poverty income guidelines is:

	Family Size	Monthly
(a)	One	\$ ((424)) 449
(b)	Two	((568)) 602
(c)	For family units with more than two members, add \$((+45.00)) 153.00 to the monthly income for each additional member.	

**WSR 89-24-040
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 2911—Filed December 1, 1989, 2:30 p.m.]

Date of Adoption: December 1, 1989.

Purpose: To correct two subsections and prevent federal compliance issues. To update the food stamp program energy allowance and correct a subsection for preventing a compliance issue.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-460 and 388-49-470.

Statutory Authority for Adoption: RCW 74.04.510.

Pursuant to notice filed as WSR 89-21-092 on October 18, 1989.

Effective Date of Rule: Thirty-one days after filing.

December 1, 1989

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2762, filed 2/13/89)

WAC 388-49-460 **INCOME—UNEARNED.** (1) The department shall consider unearned income to include, but not be limited to:

- (a) An annuity, pension, or retirement;
- (b) Veteran or disability benefits;

- (c) Workmen or unemployment compensation;
- (d) Old-age, survivors, or social security benefits;
- (e) Strike benefits;
- (f) Payment from federally aided assistance programs based on need;
- (g) Support and alimony payments made directly to the household from a person ((living)) residing outside the household;
- (h) Child support refund payments received by AFDC recipients from office of support enforcement;
 - (i) Adult foster care payments;
 - (j) Child foster care payments provided the foster child is a food stamp household member;
 - (k) Educational benefits less excluded amounts (see income exclusions in WAC 388-49-470):
 - (i) Scholarships;
 - (ii) Educational grants including loans where repayment is deferred;
 - (iii) Fellowships; and
 - (iv) Veteran benefits.
 - (l) Payments from government-sponsored programs;
 - (m) Cash prizes, awards, lottery winnings, or gifts;
 - (n) Dividends, interest, or royalties;
 - (o) Gross income minus the cost of doing business from rental property if a household member is not managing the property at least twenty hours a week;
 - (p) Money withheld from public assistance to recoup an overpayment for intentional failure to comply with the public assistance program requirements;
 - (q) Direct money payments, such as interest, dividends, and royalties which are a gain or benefit;
 - (r) Money legally obligated and otherwise payable to the household, but diverted by the provider of the payment to a third party, for a household expense; and
 - (s) ((The)) Deemed income from an alien's sponsor.
- (2) The department shall disregard the following as unearned income:
 - (a) Money from any source voluntarily returned by a household member to repay a prior overpayment from the same source;
 - (b) ((Mandatory deductions from a source to repay a prior overpayment from the same source except from:
 - (i) AFDC,
 - (ii) Refugee assistance,
 - (iii) GA-U, and
 - (iv) GA-S.
 - (c)) Child support payments assigned to office of support enforcement received by AFDC recipients.
- (3) The department shall verify gross nonexempt unearned income except for expedited service households:
 - (a) ((Prior to)) Before initial certification;
 - (b) At recertification if amount ((has changed)) changes more than twenty-five dollars; and
 - (c) On a monthly basis for households subject to monthly reporting if the income ((has changed)) changes.

AMENDATORY SECTION (Amending Order 2800, filed 5/24/89)

WAC 388-49-470 INCOME—EXCLUSIONS.
 (1) The department shall exclude the following income:

- (a) Money withheld from an assistance payment, earned income, or other income source used to repay a prior overpayment from that same income source;
- (b) ((Any)) Income specifically excluded by any ((other)) federal statute from consideration as income in the food stamp program;
- (c) The earned income of children who are:
 - (i) Members of the household,
 - (ii) ((Under eighteen)) Seventeen years of age or under, and
 - (iii) Attending school at least half time.
- (d) Infrequent or irregular income received during a three-month period that:
 - (i) Cannot be reasonably anticipated as available, and
 - (ii) Shall not exceed thirty dollars for all household members.
- (e) Loans, including those from private individuals and commercial institutions, other than educational loans where repayment is deferred;
- (f) Nonrecurring lump sum payments;
- (g) The cost of producing self-employment income;
- (h) Financial aid received under Title IV of the Higher Education Act designated by the school for:
 - (i) Tuition,
 - (ii) Fees (including equipment and material),
 - (iii) Books,
 - (iv) Supplies,
 - (v) Transportation, and
 - (vi) Miscellaneous personal expenses ((as)) determined by the institution.
- (i) Other federal financial aid designated by the school for:
 - (i) Tuition, and
 - (ii) Mandatory fees.
- (j) Nonfederal financial aid designated by the school for:
 - (i) Tuition and mandatory fees at any school beyond high school or a school at any level for the physically or mentally handicapped; and
 - (ii) Other earmarked educational expenses such as transportation, supplies, and textbooks((, and child care)).
- (k) Reimbursements for past or future expenses to the extent the reimbursements do not:
 - (i) Exceed the actual expense, and
 - (ii) Represent a gain or benefit to the household.
 - (l) Any gain or benefit not in money;
 - (m) Vendor payments as defined in WAC 388-49-020;
 - (n) Money received and used for the care and maintenance of a third-party beneficiary who is not a household member;
 - (o) Supplemental payments or allowances made under federal, state, or local laws for the purpose of offsetting increased energy costs;
 - (p) Energy allowances included in AFDC, continuing general assistance, and refugee assistance grants.

Number in Grant Assistance Unit	Energy Exclusion
1	\$((30)) 36
2	((39)) 47
3	((46)) 56
4	((56)) 67
5	((63)) 77
6	((72)) 87
7	((84)) 101
8 or more	((92)) 111

(q) ((Money)) Support payments specified by the support court order or other legally binding written support or alimony agreement to go directly to a third-party beneficiary rather than to the household;

(r) Support payments not required by ((a)) the support court order or other legally binding written support or alimony agreement paid directly to a third party rather than to the household;

(s) Payments from the individual and family grant program;

(t) Public assistance payments ((when they are)):

- (i) Over and above the regular warrant amount; and
- (ii) Not normally a part of the regular warrant; and
- (iii) Paid directly to a third party on behalf of the household.

(u) Earnings from on-the-job training programs under the Job Training Partnership Act by household members:

- (i) ((Under 19)) Eighteen years of age and under; and
- (ii) Under parental control.

(v) Cash donations based ((upon)) on need:

- (i) Received directly by the household;
- (ii) From one or more private, nonprofit, charitable organizations; and

(iii) Not exceeding three hundred dollars in any federal fiscal year quarter.

(w) Earned income credit.

(2) When a child's earnings or amount of work performed cannot be differentiated from the earnings or work performed by other household members, the department shall:

(a) Prorate the earnings equally among the working members, and

(b) Exclude the child's pro rata share.

(3) When the intended beneficiaries of a single payment for care and maintenance of a third-party beneficiary include both household members and persons not in the household, the ((excluded amount)) department shall ((be)) exclude:

(a) Any identifiable portion intended and used for the care and maintenance of the person out of the household, or

(b) If the portions are not readily identified as:

(i) An even pro rata share; or

(ii) The amount actually used for the care and maintenance of the person out of the household, whichever is less.

WSR 89-24-041

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2912—Filed December 1, 1989, 2:31 p.m.]

Date of Adoption: December 1, 1989.

Purpose: To allow child care and \$90 work expense deductions from income earned by a parent or stepparent who is sanctioned or failed to cooperate with the department.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-28-560.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-21-090 on October 18, 1989.

Effective Date of Rule: Thirty-one days after filing.

December 1, 1989

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2571, filed 1/22/88)

WAC 388-28-560 INCOME FOR SUPPORT OF LEGAL DEPENDENTS. ((The income of a parent or stepparent shall be allocated as follows:))

(1) The department shall allot the income of a parent((s)) or stepparent((s)) in the assistance unit after applying the proper earned income exemptions in WAC 388-28-570(6). The department shall allot the income in the following order:

(a) To pay court or administratively ordered support for ((any)) a legal dependent ((or dependents)) not living in ((his or her)) the parent or stepparent's home. ((Such)) The department shall verify support ((is)) payments and exempt up to the amount of the one-person continuing assistance need standard for each legal dependent((. Verification must be obtained that the support payments are being made.))

(b) To meet the ((requirements of those needy members)) needs of ((the)) family ((who are)) members not eligible for AFDC ((and for whom)) but who are the legal responsibility of the parent or stepparent ((is legally responsible. Such requirements shall be computed according to appropriate payment level)). The exempt amount shall not exceed the appropriate payment standard;

(c) To meet the needs of members of the AFDC assistance unit ((for whom he or she is legally responsible)).

(2) After applying the earned income work expense and dependent care exemptions allowed in WAC 388-28-570(6), the department shall allot the income of a parent((s)) or stepparent((s not in the assistance unit but)) in the household((:

(a) Ineligible parents or stepparents whose income is deemed to the assistance unit shall have that income allocated)), but not in the assistance unit as in subsections (1)(a), (b), and (c) of this section((:

(b) A parent or stepparent who is in sanction status or who is required to be in the assistance unit and has)),

The department shall not allot any income to the needs of the parent or stepparent if that person is sanctioned or failed to cooperate ((shall have his or her gross income allocated to the assistance unit)) with the department.

**WSR 89-24-042
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 2913—Filed December 1, 1989, 2:33 p.m.]

Date of Adoption: December 1, 1989.

Purpose: To incorporate into the regulations that the present sound care plan is being expanded to Jefferson and Clallam counties.

Citation of Existing Rules Affected by this Order: Amending WAC 388-86-00901.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to expand the present sound care plan to Jefferson and Clallam counties.

Effective Date of Rule: Immediately.

December 1, 1989
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2554, filed 11/4/87)

WAC 388-86-00901 KITSAP PHYSICIANS SERVICE—SOUND CARE PLAN. (1) ((A)) The department shall enroll aid to families with dependent children (AFDC-R) grant recipients ((who live)) and family independence program (FIP-J and G) enrollees residing in Kitsap ((or)), Mason, Jefferson, or Clallam counties ((shall be enrolled)) in the Kitsap Physicians Service—Sound Care Plan (plan), except as provided in ((subsection (3))) subsections (4) and (5) of this section.

(2) The department may enroll additional program eligible groups with the agreement of the plan.

(3) Timely provision of services((The)) means a recipient shall have the right to receive medically necessary care without unreasonable delay.

((3))) (4) ((Exemptions and disenrollment. The following have the right to be exempt from enrollment in the plan or to disenroll from the plan:

((a))) Upon a client's request, the department may exempt clients, for whom medically necessary care((that)) is required, and the plan is ((obligated by contract)) contracted to provide but cannot ((be made reasonably)) make medically necessary care available. In making the exemption determination, consideration shall include, but not be limited to:

((t))) (a) Whether distance or transportation problems make it unreasonably difficult for the ((recipient)) client to obtain services; or

((t))) (b) Whether the absence of translators or of services accessible to disabled persons makes it unreasonably difficult for the ((recipient)) client to obtain services.

((b))) (5) Indians eligible under subsection (1) of this section and eligible to receive health services through the Indian Health Service ((Ethics)) may choose to enroll in the plan.

((4))) (6) ((Emergency: "Emergency" is defined as a situation in which medical services are immediately required to avoid placing an individual's health in serious jeopardy or to alleviate a condition manifesting itself by acute symptoms, including severe pain or discomfort, or active labor.)) Emergencies and emergency transportation services are exempt from the plan's routine medical care authorization procedures. Emergency defines a situation in which medical services are immediately required to avoid placing an individual's health in serious jeopardy or alleviate a condition manifesting itself by acute symptoms, including severe pain, discomfort, or active labor.

(a) The recipient is not responsible for determining, or for the cost of determining, if an emergency exists.

(b) If an emergency exists, the recipient is not financially responsible for any services rendered.

(c) If an emergency does not exist, and the plan will not authorize further services, the recipient is financially responsible for ((any)) further services received only if the recipient is informed ((of his/her)) and agrees, in writing, to the responsibility ((prior to the receipt of)) before receiving the services.

((5))) (7) ((Fair hearings:)) Any ((applicant or recipient)) client aggrieved by a decision of the plan or the department has the right to a fair hearing ((as provided in)) under chapter 388-08 WAC.

(a) Except as provided in subdivision (b) and (c) of this subsection, a recipient shall exhaust the plan's grievance procedure ((prior to)) before requesting a fair hearing. The plan's grievance procedure shall result in a written decision stating the basis for the decision. The recipient has the right to request a fair hearing if the decision is adverse or the written decision is not received within thirty days from the date the plan received the grievance. The plan may be a party to the fair hearing.

(b) In any case ((in which urgently needed medical services are being denied)) where the plan denies a recipient ((by the plan)) urgently needed medical services, a recipient ((is)) need only ((required to)) provide a written grievance to the plan ((prior to)) before or ((at the time of)) when requesting a fair hearing.

(c) ((An applicant or recipient)) A client requesting exemption from enrollment in the plan is ((not)) required to file a ((formal grievance)) written request with the ((plan prior to requesting)) division of medical assistance of the department. If not satisfied with the department's decision, the client may request a fair hearing. The plan may be a party to ((any such)) the fair hearing.

((8)) (8) Each recipient enrolled in the plan shall have a primary care physician((s)) (PCP):

(a) ((All clients)) Recipients shall have an opportunity to choose a PCP from current plan providers((:));

(b) The plan shall assign a PCP to ((those clients who do)) recipients not ((choose an enrolled)) choosing a participating provider((:));

((b)) (c) ((A client)) Recipients shall have the right to change their PCP:

(i) One time during a twelve-month period for any reason((:));

(ii) For ((any)) subsequent changes during the twelve-month period the ((client)) recipient shall first show good cause.

((c)) (d) When requesting a change in their PCP the ((client)) recipient shall notify the plan of the:

(i) ((The)) Desired change including the name of the new PCP((:)); and

(ii) ((The)) Reason for the desired change.

((7)) (9) ((Second opinions:)) The ((client)) recipient shall have the right to a second opinion by another participating physician or specialist:

(a) When the ((client)) recipient needs more information as to the medical necessity of medical treatment recommended by the PCP((:)); or

(b) If the ((client)) recipient believes ((that)) the PCP is not authorizing medically necessary care.

((8)) (10) ((Physician referral:)) When medically necessary, the PCP shall make a prompt referral to another participating physician or specialist.

((9)) (11) ((Program administration)) The department may terminate enrollment of a recipient in the plan if the:

(a) Recipient loses eligibility for the plan; or

(b) Recipient requests disenrollment under the same considerations as subsection (4) of this section; or

(c) Plan requests a disenrollment of the recipient, in writing, and the:

(i) Plan establishes the recipient's behavior is:

(A) Inconsistent with the plan's rules and regulations, such as intentional misconduct; or

(B) Such that it becomes medically nonfeasible to safely or prudently provide medical services.

(ii) Plan's requested termination is approved by the director of the division of medical assistance or the director's designee. The division of medical assistance shall:

(A) Make a decision on the requested termination within fifteen days of the receipt of the request; and

(B) Notify the recipient ten days in advance of the effective date of disenrollment for any approved termination.

(12) The plan shall not request termination of a recipient solely due to an adverse change in the recipient's health.

((a)) (13) The plan shall appoint a medical director ((appointed by the plan (shall)) who:

((f)) (a) ((Be)) Is responsible for the plan's quality assurance program and shall review all plan grievances((:)); and

((f)) (b) Furnishes the division of medical assistance with a copy of all written grievances and the plan's response to ((all written)) such grievances.

((b)) (14) On at least an annual basis, the department shall arrange for and the plan shall permit an independent, external review of the quality of recipient services provided or arranged by the plan ((for clients shall be conducted on an annual basis)).

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

**WSR 89-24-043
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 2914—Filed December 1, 1989, 2:35 p.m.]

Date of Adoption: December 1, 1989.

Purpose: To include in the rules that an individual in a public institution is not eligible for Medicaid. To add that hospice clients with up to 300 percent of the SSI benefit cap are eligible as categorically needy.

Citation of Existing Rules Affected by this Order: Amending WAC 388-82-010 and 388-99-010.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to add coverage to hospice clients and clarify who is eligible in a public institution.

Effective Date of Rule: Immediately.

December 1, 1989

Leslie F. James, Director
Administrative Services

**AMENDATORY SECTION (Amending Order 2620,
filed 4/15/88)**

WAC 388-82-010 PERSONS ELIGIBLE FOR MEDICAL ASSISTANCE. Medical assistance is available to any ((individual)) categorically needy person who is ((categorically needy));

(1) ((Individuals)) Receiving or eligible to receive a cash assistance payment. Payment categories ((under which individuals)) a person may qualify for include:

(a) Aid to families with dependent children (AFDC);
(b) Supplemental Security Income (SSI);

(c) State supplemental payment. The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for ((medicaid)) categorically needy medical assistance; and

(d) ((Individuals)) A person under ((age)) twenty-one years of age:

(i) Whose income is less than the one-person AFDC standard and ((who are)) is in:

((f)) (A) Foster care; or
((f)) (B) Subsidized adoption; or

((iii)) (C) A skilled nursing home, intermediate care facility, or intermediate care facility for mentally retarded (ICF/MR); or

((iv)) (D) An approved inpatient psychiatric ((facilities)) facility.

(ii) Meeting the eligibility requirements under WAC 388-83-033.

(e) Family independence program (FIP).

(2) A pregnant woman:

(a) Who would be eligible for AFDC if her child were born and ((living)) residing with her. In determining income eligibility for Medicaid, the department shall increase the number in the household by one before comparing the pregnant woman's income to the AFDC payment standard; or

(b) Meeting the eligibility requirements under WAC 388-83-032.

((f)) Family independence program.)

((2)) (3) ((Individuals)) In a medical ((facilities)) facility and:

(a) Who would be eligible for cash assistance if ((they were)) the person was not institutionalized. This includes all categorically needy groups; or

(b) ((Who are)) SSI categorically related and would not be eligible for cash assistance if they were not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap. This includes only aged, blind, and disabled groups.

((3)) (4) ((Individuals who would)) Not ((receive)) receiving cash assistance because of special provisions as defined in WAC 388-83-028.

(5) Not an inmate of a public institution.

(6) Sixty-four years of age or older, a patient in an institution for mental diseases, and eligible under subsection (3)(a) and (b) of this section.

(7) An individual:

(a) SSI categorically related;

(b) With gross income in excess of the total of the SSI and state supplement rate, but less than three hundred percent of the SSI federal benefit rate; and

(c) Eligible for, and accepting of, hospice services as described under WAC 388-86-047.

AMENDATORY SECTION (Amending Order 2722, filed 11/7/88)

WAC 388-99-010 PERSONS ELIGIBLE FOR MEDICALLY NEEDY ASSISTANCE. The department shall determine as medically needy a resident of the state of Washington who meets the income and resource ((standards)) levels in WAC 388-99-020 and 388-99-035 and is:

(1) Categorically needy as defined under WAC 388-82-010 but for income and/or resources; or

(2) The aged, blind, or disabled ineligible spouse of an SSI beneficiary ((if:

(a) The ineligible spouse is aged, blind, or disabled));

((and

(b) The total income of the SSI beneficiary is excluded)); or

(3) A child under ((seven)) eight years of age, born after September 30, 1983((:)); or

(4) A pregnant woman who the department considers categorically needy but for income((:)) and resource((: and/or deprivation)) requirements. For the purposes of this subsection, the department shall increase the number in the household by one before comparing the pregnant woman's:

(a) ((The pregnant woman's)) Income to the medically needy income level in WAC 388-99-020; and

(b) ((The pregnant woman's)) Resources to the resource level in WAC 388-99-035.

(5) Not an inmate of a public institution.

WSR 89-24-044

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 89-143—Filed December 1, 1989, 3:35 p.m.]

Date of Adoption: December 1, 1989.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-47-527.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The opening in Area 7B provides opportunity to harvest non-Indian allocation of Nooksack-Samish origin chum, and is necessary to reduce wastage. The in-season area restriction in Area 7B is necessary to maintain an orderly fishery.

Effective Date of Rule: 12:00 noon, December 3, 1989.

December 1, 1989

Judith Merchant

Deputy Director

for Joseph R. Blum

Director

NEW SECTION

WAC 220-47-528 PUGET SOUND ALL-CITIZEN COMMERCIAL SALMON FISHERY. Notwithstanding the provisions of Chapter 220-47 WAC, effective 12:00 noon Sunday December 3, until further notice, it is unlawful to take, fish for, or possess salmon or Atlantic salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following open periods and restrictions:

* Area 7B – Gill nets using 6-inch minimum mesh and purse seines may fish continuously from 12:00 noon Sunday December 3 to 4:00 PM Friday December 15. This opening excludes those waters north and east of a line projected from the light at the Port of Bellingham North Terminal to the light at the end of Squalicum Creek waterway.

- * Areas 4B, 5, 6, 6A, 6B, 6C, 6D, 7, 7A, 7C, 7D, 7E, 8, 8A, 8D, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12, 12A, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K and all freshwater areas – Closed.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:00 noon Sunday, December 3:

WAC 220-47-527 PUGET SOUND ALL-CITIZEN COMMERCIAL SALMON FISHERY (89-142)

WSR 89-24-045

PROPOSED RULES

OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

[Filed December 1, 1989, 4:16 p.m.]

Continuance of WSR 89-17-110.

Title of Rule: WAC 326-30-030 Procedure for setting overall annual goals.

Purpose: To refine OMWBE's goal-setting process in light of evolving federal law.

Statutory Authority for Adoption: RCW 39.19.030(7).

Statute Being Implemented: RCW 39.19.030(4).

Summary: The proposed rule sets forth a variety of factors that OMWBE will take into consideration during its annual evaluation of participation goals.

Reasons Supporting Proposal: Federal law concerning affirmative action programs is constantly changing. Recent trends in constitutional law suggest that a refinement of the goal-setting process is necessary.

Name of Agency Personnel Responsible for Drafting: Theresa Fricke, AAG, 7th Floor, Highways–Licenses Building, 586-3756; Implementation and Enforcement: James A. Medina, 406 South Water, 753-9693.

Name of Proponent: Office of Minority and Women's Business Enterprises, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Minority and women's business participation goals are evaluated on a yearly basis pursuant to RCW 39.19.030(4). In the goal-setting review process, OMWBE consults with its advisory committee and considers a variety of information to use in deciding an appropriate set of goals. The purpose of this proposed rule is to further refine OMWBE's goal-setting process, to be responsive to evolving federal law concerning affirmative action. This rule's anticipated effect is to further develop OMWBE's annual goal-setting review process.

Proposal Changes the Following Existing Rules: The changes reflect specific types of information that is relevant to OMWBE's goal-setting procedure, and will be considered when the data is reasonably obtainable.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Office of Minority and Women's Business Enterprises, 406 South Water, Olympia, WA 98504-4611, on January 10, 1990, at 7:00 p.m.

Submit Written Comments to: Office of Minority and Women's Business Enterprises, 406 South Water, FK-11, Olympia, WA 98504-4611, by January 17, 1990.

Date of Intended Adoption: February 20, 1990.

December 1, 1989

James A. Medina
Director

WSR 89-24-046

PROPOSED RULES

OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

[Filed December 1, 1989, 4:17 p.m.]

Continuance of WSR 89-17-111.

Title of Rule: WAC 326-30-03902 Goals for 1989-90.

Purpose: To implement RCW 39.19.030(4) and encourage MWBE participation in state contracting opportunities.

Statutory Authority for Adoption: RCW 39.19.030(7).

Statute Being Implemented: RCW 39.19.030(4).

Summary: The Office of Minority and Women's Business Enterprises reevaluates MWBE participation goals on an annual basis. This proposed rule sets goals for different classes of contracts, to be flexibly implemented on a contract by contract basis during 1989-1990.

Reasons Supporting Proposal: OMWBE, with input from the advisory committee, has reviewed and considered a variety of information and concludes that this proposed rule contains reasonable goals.

Name of Agency Personnel Responsible for Drafting: Theresa Fricke, AAG, 7th Floor, Highways–Licenses Building, 586-3756; Implementation and Enforcement: James A. Medina, 406 South Water, 753-9693.

Name of Proponent: Office of Minority and Women's Business Enterprises, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This proposed rule implements chapter 39.19 RCW by promoting minority and women's business participation in state contracting opportunities. Goals are reviewed and implemented annually, to ensure that they are consistent with current information about contracting opportunities and availability of MWBEs. Anticipated effect is increased awareness by contractors and agencies about the benefits of utilizing qualified MWBEs for various classes of contracts.

Proposal does not change existing rules.

Small Business Economic Impact Statement: This rule affects small business, as it is designed to assist small businesses seeking contracting opportunities with state agencies. Any impact will be negligible, because the goals proposed for 1989-90 are the same as those implemented during 1988-89. Analysis is inappropriate

under RCW 19.85.040, because OMWBE does not have data from which to make comparison of costs, and because the effect, if any, is negligible.

Hearing Location: Office of Minority and Women's Business Enterprises, 406 South Water, Olympia, WA 98504-4611, on January 10, 1990, at 7:00 p.m.

Submit Written Comments to: Office of Minority and Women's Business Enterprises, 406 South Water, FK-11, Olympia, WA 98504-4611, by January 17, 1990.

Date of Intended Adoption: February 20, 1990.
 December 1, 1989
 James A. Medina
 Director

WSR 89-24-047
PERMANENT RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES

[Filed December 1, 1989, 4:18 p.m.]

Date of Adoption: December 1, 1989.

Purpose: This proposed rule is intended to guide OMWBE in weeding out businesses that are not actually owned and controlled by a minority or woman.

Citation of Existing Rules Affected by this Order: WAC 326-02-030 and 326-20-081.

Statutory Authority for Adoption: RCW 39.19.030(7).

Pursuant to notice filed as WSR 89-17-109 on August 23, 1989.

Effective Date of Rule: Thirty-one days after filing.
 December 1, 1989
 James A. Medina
 Director

NEW SECTION

WAC 326-20-081 INTERTWINEMENT To be eligible for certification, a firm must be independent. Significant intertwinement with a noncertified firm may be grounds for denial or decertification of a firm. The Office will determine whether a firm is significantly intertwined with a noncertified firm by looking for factors which include, but are not limited to, the following: (1) shared ownership, (2) common directors or partners, (3) shared equipment, facilities, resources, or employees, (4) beneficial financial arrangements which indicate less than arms length transactions with a noncertified firm, (5) overdependency on a noncertified firm to obtain and perform work, (6) such an identity of interest exists between the firm seeking certification and a noncertified firm that an affiliation may be presumed, (7) the degree to which financial, equipment, leasing, business and other relationships with noncertified firms vary from normal industry practice.

AMENDATORY SECTION (Amending Order 88-5, filed 5/31/88)

WAC 326-02-030 DEFINITIONS. Words and terms used in these rules shall have the same meaning as

each has under chapter 120, Laws of 1983, unless otherwise specifically provided in these rules, or the context in which they are used clearly indicates that they be given some other meaning.

(1) "Advisory committee" means the advisory committee on minority and women's business enterprises.

(2) "Class of contract basis" means an entire group of contracts having a common characteristic. Examples include, but are not limited to, personal service contracts, public works contracts, leases, purchasing contracts, and contracts for specific types of goods and/or services.

(3) "Combination minority and women's business enterprise" means a business organized for profit, performing a commercially useful function, that is fifty percent owned and controlled by one or more minority men or MBEs certified by this office and fifty percent owned and controlled by one or more nonminority women or WBEs certified by this office. The owners must be United States citizens or lawful permanent residents.

(4) "Commercially useful function" means the performance of real and actual services in the discharge of any contractual endeavor.

(a) For purposes of certification, factors which may be considered in determining whether a business is or will be performing a commercially useful function include, but are not limited to, the following:

(i) Whether the business is or will be responsible for executing a distinct element of work in the performance of a contract; and

(ii) Whether principals or employees of the business actually perform, manage, and supervise the work for which the business is or will be responsible; and

(iii) Whether the business could be considered a "conduit," "front," or "pass-through" as defined in this section; and

(iv) Whether the minority and/or women owner(s) has the skill and expertise to perform the work for which the business is being, or has been certified.

(b) The manner in which a supplier does business will be examined by the office for purposes of certification and may be considered by state agencies and educational institutions in awarding a contract. Factors in addition to those in (a) of this subsection which indicate that a supplier is performing a commercially useful function include, but are not limited to, the following:

(i) It either assumes the actual and contractual responsibility for furnishing goods or materials and executes material changes in the configuration of those goods or materials; or

(ii) Is the manufacturer of those goods or materials; or

(iii) Before submitting the certification application, it has secured a contract or distributor agreement with a manufacturer to act as an authorized representative, and can pass on product warranties to the purchaser; and

(iv) Performs a distinct element of work in a manner that is consistent with common industry practice. Factors which may indicate that a firm is not performing a commercially useful function include, but are not limited to, the following:

(A) A minimum amount of inventory is not maintained;

(B) Billing and shipping arrangements are performed by nonowners or staff of nonowners;

(C) A significant amount of deliveries are shipped directly from the producer or manufacturer to the end user;

(D) The supplier does not take ownership of the product.

(5) "Contract" means a mutually binding legal relationship, including a lease, or any modification thereof, obligating the seller to furnish goods or services, including construction, and the buyer to pay for them.

(6) "Contract by contract basis" means a single contract within a specific class of contracts.

(7) "Contractor" means a party who enters into a contract to provide a state agency or educational institution with goods or services, including construction, or a subcontractor or sublessee of such a party.

(8) "Director" means the director of the office of minority and women's business enterprises.

(9) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.

(10) "Goals" means annual overall agency goals, expressed as a percentage of dollar volume for participation by minority and women-owned businesses, and shall not be construed as a minimum goal for any particular contract or for any particular geographical area. Goals shall be met on a contract by contract or class of contract basis. In meeting their goals on either a contract by contract or a class of contract basis state agencies and educational institutions should facilitate the entry of minority and women's business enterprises into types of businesses in which MBE's and WBE's are underrepresented.

(11) "Goods and/or services" means all goods and services, including professional services.

(12) "Joint venture" means a single enterprise partnership of two or more persons or businesses created to carry out a single business enterprise for profit for which purpose they combine their capital, efforts, skills, knowledge or property and in which they exercise control and share in profits and losses in proportion to their contribution to the enterprise.

(13) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:

(a) Black: Having origins in any of the black racial groups of Africa;

(b) Hispanic: Of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(c) Asian American: Having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; or

(d) American Indian or Alaskan Native: Having origins in any of the original peoples of North America.

Persons who are visibly identifiable as a minority need not provide documentation of their racial heritage but may be required to submit a photograph. Persons who are not visibly identifiable as a minority must provide

documentation of their racial heritage which will be determined on a case-by-case basis. The final determination will be in the sole discretion of the office.

(14) "Minority business enterprise," "minority-owned business enterprise," or "MBE" means a business organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more minority individuals or minority business enterprises certified by this office. The minority owners must be United States citizens or lawful permanent residents.

(15) "MWBE" means a minority-owned business enterprise, a women-owned business enterprise; and/or a combination minority and women's business enterprise certified by the office of minority and women's business enterprises of the state of Washington.

(16) "Office" means the office of minority and women's business enterprises of the state of Washington.

(17) "Procurement" means the purchase, lease, or rental of any goods or services.

(18) "Public works" means all work, including construction, highway and ferry construction, alteration((s)), repair, or improvement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.

(19) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions. "State agency" does not include the judicial or legislative branches of government except to the extent that procurement or public works for these branches is performed by a state agency.

(20) "Women's business enterprise," "women-owned business enterprise," or "WBE" means a business organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more women or women's business enterprises certified by this office. The women owners must be United States citizens or lawful permanent residents.

(21) "Common industry practices" mean those usages, customs, or practices which are ordinary, normal, or prevalent among businesses, trades, or industries of similar types engaged in similar work in similar situations in the community.

(22) "Conduit" means a WBE, MBE, or combination MWBE which agrees to be named as a subcontractor on a contract in which such WBE, MBE, or combination MWBE does not perform the work but, rather, the work is performed by the prime contractor, prime consultant, material supplier, purchasing contractor, or any other non-MWBE business.

(23) "Front" means a business which purports to be: (a) A WBE but is in fact owned or controlled by a man or men; (b) a MBE but is owned or controlled by a nonminority person or persons; or (c) a combination MWBE but is owned or controlled by a man or men or by a nonminority person or persons to a greater extent than is allowed by WAC 326-02-030(3).

(24) "Pass-through" means a business which buys goods from a non-WBE, non-MBE, or noncombination MWBE and simply resells those goods to the state, state contractors or other persons doing business with the

state for the purpose of allowing those goods to be counted towards fulfillment of WBE or MBE goals.

(25) "Manufacturer" means a business which owns, operates, or maintains a factory or establishment that produces or creates goods from raw materials or substantially alters goods before reselling them.

(26) "Supplier" means a business which provides or furnishes goods or materials, performs a commercially useful function, and is not considered a conduit, front, or pass-through.

(27) "Switch business" means a business which was previously owned and controlled by a man, men or nonminorities, which has made technical changes to its business structure so that it is now purportedly owned and controlled by a woman or women or by a minority person or persons, but continues to operate in substantially the same manner as it did prior to the written revisions of the business structure.

(28) "Corporate-sponsored dealership" means a bona fide minority or women's business which meets the following standards in lieu of the fifty-one percent ownership criteria set out in subsections (14), (15), and (20) of this section, and meets the following standards in lieu of the factors used to evaluate control in WAC 326-20-080.

(a) The minority or women owner(s) have entered into a written agreement, contract, or arrangement with a national or regional corporation and has been granted a license to offer, sell or distribute goods or services at wholesale or retail, leasing, or otherwise use the name, service mark, trademark, or related characteristics of the sponsoring corporation.

(b) The capital investment for the dealership or business is jointly contributed by the minority or women owner(s) and the sponsoring corporation.

(i) The original investment contributed by the minority or women owner(s) may be less than fifty-one percent, but must constitute at least twenty-five percent of the capitalization investment (total required equity capital) in the dealership corporation.

(ii) A specified time limit of not more than ten years must be established, binding between the minority or women owner(s) and the sponsoring corporation, within which the buy-out of the corporate sponsor's interest is complete.

(c) If the sponsoring corporation retains majority voting rights and control of the board of directors, then the minority or women owner(s) must annually apply at least fifty percent of the net profit and bonuses toward the buy-out of the corporate sponsors' interest within the buy-out time limit established with the corporation.

(d) The minority or women owner(s) must show active participation in the decision-making process on the board of directors of the dealership.

(e) The minority or women owner(s) must have operational control, and as such have day-to-day management control of the dealership, with responsibility for sales, service volume, and profits.

(f) The sponsoring corporation must have specifically developed a national or regional corporate sponsored dealership program to address the present-day issue of lack of opportunities for minorities or women in the

dealership industry, which includes such features as: Capitalization assistance from the sponsoring corporation, on-going business operations training, technical assistance to the dealership owner, and a corporate sponsored minority and women's business program.

(g) The minority or women owner(s) must demonstrate that the relationship between the corporate sponsor and the minority or women's business was not formed for the primary purpose of achieving certification under chapter 39.19 RCW, or any similar provision of any ordinance, regulation, rule, or law.

(h) The minority or women owner(s) have prior business or management experience relating to the business being entered into as an owner.

(i) The minority or women owner(s) must be president of any corporation formed by the business.

(29) "Legitimately owned and controlled" for the purposes of determining whether a business is a minority business enterprise, a women's business enterprise, or a combination thereof, shall mean that women, minorities or a combination thereof shall possess:

((#)) (a) Ownership of at least fifty-one percent interest in the business, unless the minority and/or women's business qualifies as a corporate sponsored dealership under the provisions of WAC 326-02-030(28). The ownership shall be real and continuing, and shall go beyond the pro forma ownership of the business reflected in the ownership documents. The minority and/or women owner(s) shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with their ownership interests, as demonstrated by an examination of the substance and the form of the arrangements; and

((2)) (b) Control over management, interest in capital, interest in profit or loss and contributions to capital, equipment and expertise on which the claim of minority and/or women-owned status under this chapter is based. The business must be independent and the minority and/or women owner(s) must possess and exercise the legal power to direct the management and policies of the business and to make the day-to-day as well as major decisions on matters of management, policy, finances, and overall operations. If the owners of the business who are not minorities and/or women are disproportionately responsible for the operation of the business, then the business is not controlled by minorities and/or women. The minority and/or women owner(s) must control and manage the day to day operations of the business. The requirements of this shall not apply, if the minority/women's business qualifies as a corporate sponsored dealership under the provisions of WAC 326-02-030(28).

WSR 89-24-048
EMERGENCY RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES

[Filed December 1, 1989, 4:19 p.m.]

Date of Adoption: December 1, 1989.

Purpose: To refine OMWBE's goal-setting process in light of evolving federal law.

Citation of Existing Rules Affected by this Order: WAC 326-30-030.

Statutory Authority for Adoption: RCW 39.19.030(7).

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: OMWBE files this emergency rule so that follow-up information can be collected relevant to the permanent rule-setting. Hearings held during October and November 1989 produced valuable input and OMWBE plans to review additional information between December 1, 1989, and March 1, 1990. This rule must remain in effect to facilitate the process of considering further input relevant to the permanent rule.

Effective Date of Rule: Immediately.

December 1, 1989
James A. Medina
Director

AMENDATORY SECTION (Amending Order 83-7, filed 1/5/84)

WAC 326-30-030 PROCEDURE FOR SETTING OVERALL ANNUAL GOALS. The director of the office of minority and women's business enterprises will establish overall annual goals for participation in state contracts by qualified MBEs and WBEs for all state agencies and educational institutions. The annual period shall be the state fiscal year. The goals will be a percentage of the reporting base, all contracts awarded each year for public works, personal services, and for procurement of goods and services by state agencies and educational institutions that are not specifically excluded or generally excluded from the reporting base.

(1) Time for establishment of goals. The overall annual goals will be adopted each year by June 15.

(2) Distribution. The overall annual goals will be distributed to the head of each agency and educational institution on or before June 30 each year.

(3) Process used to establish goals. The director will review the overall annual goals each year and establish goals for the upcoming year. ((Factors to be considered in establishing the new goals shall include: The number of certified minority and women's businesses, the success in attaining goals over the last year, the population of women and minorities in the state;)) In establishing the new goals, the director shall consider the following categories of information, to the extent that such data is reasonably obtainable: (1) The number of certified minority and women's businesses available to perform work in each class of contract; (2) the success in attaining goals over the last year; (3) information regarding the percentage of available MBEs and WBEs as compared to the percentage of dollars awarded to MBEs and WBEs, per class of contract; (4) information indicating discrimination against MBEs and WBEs in each class of contract; (5) and such other relevant information as may be available.

WSR 89-24-049 EMERGENCY RULES OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

[Filed December 1, 1989, 4:20 p.m.]

Date of Adoption: December 1, 1989.

Purpose: To implement RCW 39.19.030(4) and encourage MWBE participation in state contracting opportunities.

Citation of Existing Rules Affected by this Order: WAC 326-30-03902.

Statutory Authority for Adoption: RCW 39.19.030(7).

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: OMWBE files this emergency rule so that participation goals will remain in effect while further information is obtained and reviewed for purposes of adopting the permanent rule. Public hearings held in October and November 1989 produced valuable input and OMWBE intends to collect follow-up information between December 1, 1989, and March 1, 1990, that is relevant to the permanent rule-setting.

Effective Date of Rule: Immediately.

December 1, 1989
James A. Medina
Director

NEW SECTION

WAC 326-30-03902 GOALS FOR 1989-90. The annual overall goals for each state agency and educational institution for each of the following classes of contracts for the period July 1, 1989 through June 30, 1990, should be:

Construction/Public Works	10% MBE	6% WBE
Architect/Engineering	10% MBE	6% WBE
Purchased Goods and Services	8% MBE	4% WBE
Other Consultants	10% MBE	4% WBE

These MWBE participation goals are based on the state agency's or educational institution's total contracts subject to this chapter within each of the above noted classes of contracts, less excluded contracts.

WSR 89-24-050 PERMANENT RULES OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

[Filed December 1, 1989, 4:21 p.m.]

Date of Adoption: December 1, 1989.

Purpose: This amendment adds architecture, engineering, as well as other consultants to the types of contracts for which business partnerships may be formed. By this rule change, OMWBE seeks to encourage cooperation between MWBE and non-MWBE businesses, to the economic benefit of both parties.

Citation of Existing Rules Affected by this Order: WAC 326-50-030 and 326-50-050.

Statutory Authority for Adoption: RCW 39.19.030(7).

Pursuant to notice filed as WSR 89-19-070 on September 20, 1989.

Effective Date of Rule: Thirty-one days after filing.

December 1, 1989
James A. Medina
Director

AMENDATORY SECTION (Amending Order 85-10, filed 11/25/85)

WAC 326-50-030 BUSINESS PARTNERSHIP PROGRAM—PURCHASED GOODS AND SERVICES, ARCHITECTURE, ENGINEERING AND OTHER CONSULTANTS—PURPOSE AND INTENT. (1) Purpose and intent. The primary purpose of this Participation Program I, hereinafter referred to as the business partnership program, is to increase opportunities for certified MWBEs to provide purchased goods and services, and architecture, engineering and other consultant services to state agencies and educational institutions. This program is designed to increase the number of MWBEs participating in state contracts, and to enhance the economic viability of certified businesses, by providing incentives to non-MWBE firms, both large and small, to develop ongoing business relationships with OMWBE certified firms.

(a) The business partnership program will be in effect as of March 1, 1986. This program is a prototype program, and will be periodically evaluated by OMWBE. After the program has been in effect for 12 months, OMWBE will evaluate the program to determine whether it is fulfilling the purposes for which it is designed.

(2) The program is designed to address several specific needs of minority and women firms by (a) increasing opportunities for ((vending)) providing purchased goods and ((providing)) services, and architecture, engineering and other consultant services, and (b) providing short-term and limited financial assistance, technical assistance, and networking.

AMENDATORY SECTION (Amending Order 85-10, filed 11/25/85)

WAC 326-50-050 UTILIZATION OF CREDITS IN BUSINESS PARTNERSHIP ACCOUNT. (1) The credits in a non-MWBE firm's business partnership account may be applied ((only)) to goods and services, architecture, engineering and other consultant services contracts or requests for proposals. The credits cannot apply to MWBE requirements set on construction((;)) or public works((; or personal services)) contracts.

(2) Only the value of those transactions requested and approved may be applied against MWBE requirements set by state agencies or educational institutions in meeting contract specifications.

(3) When the non-MWBE firm bids on a state contract, it may utilize the credit it has established with OMWBE by applying the credit against the MWBE participation requirements set on contracts or requests for proposals for purchase of goods and services, architecture, engineering and other consultant services.

(4) The state agency or educational institution shall give the non-MWBE firm equal consideration as other vendors utilizing certified MWBE vendors in evaluating the bids or requests for proposal. The state agency or educational institution may count the credit toward its annual overall goals.

(5) The credit obtained by an agreement of intent shall only be used once. Additional credits may be obtained by filing additional agreements of intent with OMWBE.

(6) If credits on file with OMWBE are invoked by the non-MWBE firm on more than one outstanding bid or proposal, the credits shall be utilized on the first contract awarded.

(7) The state agency letting a contract shall contact the OMWBE to verify the existence of credits on file at the time an apparent low bidder using business partnership credits to meet the MWBE requirements of the contract is identified. The state agency letting the contract shall notify the OMWBE of the award of the contract, and the number of credits utilized by the non-MWBE firm to meet the MWBE requirements of the contract.

(8) If credits are used on one contract (first awarded), the non-MWBE firm, if the apparent low bidder, may be allowed a period of up to 24 working hours to secure new or additional MBE or WBE

subcontractors. If written proof of subcontractors with new or additional MBE or WBE firms is not provided to the agency within that time, agency may award contract pursuant to WAC 326-40-020.

(9) The business partnership credits will remain in the account established for the non-MWBE firm for one year after the credits are accrued, or for one year from the time the contract in the agreement of intent is completed, as stipulated in the agreement of intent. All unused credit will be voided six months after the effective date, in the event the business partnership program is discontinued.

WSR 89-24-051

PERMANENT RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 89-22—Filed December 1, 1989, 4:58 p.m.]

Date of Adoption: December 1, 1989.

Purpose: Revise general reporting rules, classification plan and corresponding base rate tables and retrospective rating plan table applicable to workers' compensation insurance underwritten by the Washington State Fund, Department of Labor and Industries.

Citation of Existing Rules Affected by this Order: Amending chapter 296-17 WAC, Manual of rules, classifications, rates and rating system for Washington workers' compensation insurance.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.16.035.

Pursuant to notice filed as WSR 89-20-063 on October 4, 1989.

Changes Other than Editing from Proposed to Adopted Version: WAC 296-17-45002(4), delete subsection (iii) from the rule. This subsection required an employee of an employer engaged in interstate or foreign commerce to reside within the geographic boundaries of Washington state to be entitled to benefits in the event an injury occurred. As a result of written and oral testimony received from employees, employers, and association representatives, this requirement was withdrawn.

Effective Date of Rule: January 1, 1990.

December 1, 1989

Joseph A. Dear

Director

AMENDATORY SECTION (Amending Order 88-12, filed 7/22/88, effective 1/1/89)

WAC 296-17-310 GENERAL RULES AND INSTRUCTIONS. This section constitutes general rules and instructions for chapter 296-17 WAC.

(1) Purposes. This chapter of the Washington Administrative Code, including classifications of risk, premium rates, the experience rating plan, and all other rules contained herein governing the use thereof, is herein referred to as the manual. This manual is promulgated by the department of labor and industries pursuant to RCW 51.16.035. This manual contains a formulation of the rules and regulations providing for basic classifications, rates of premium, method of premium calculation and collection, and a rating system, consistent with recognized principles of workers' compensation insurance. This manual governs the department's underwriting of

workers' compensation insurance and assessment of other monetary obligations, under the industrial insurance law of the state of Washington, Title 51 RCW.

(2) Overview. Washington law (RCW 51.16.035) requires that the department of labor and industries classify all occupations or industries by degree of hazard. To accomplish this, the department has established approximately ((two)) three hundred ((seventy)) basic classifications of risk embracing the various industries within the state (the actual number may vary from year to year). These basic classifications are set forth in WAC 296-17-501 through 296-17-779. The general principles and objectives of the basic classification system are set forth in WAC 296-17-310.

The first step in determining the appropriate classification for an employer is to determine the nature of the employer's business being insured in this state. If the department determines that an employer's business consists of a single operation or a number of separate operations which normally prevail in that business then the single enterprise rule (WAC 296-17-380) is applicable. This rule provides that the department is to assign the single basic classification which most accurately describes the employer's entire enterprise. This process begins with the search for a basic classification which specifically describes the employer's business. If such a basic classification is found the process of assigning a basic classification is complete.

If the employers' business operation is not specifically described by any basic classification then the employer's business is to be classified as provided for in WAC 296-17-360 (assignment of classification by analogy). In classifying by analogy the department examines the process and hazard of the employer's business and compares it to that of other basic classifications with processes and hazards that are similar to those of the employer's business and assigns the most analogous classification on that basis.

In the event that a review of the employer's business operations indicates the possibility that the employer conducts more than one business within this state, a determination will be made as to whether any additional basic classifications should be assigned on the basis of the criteria set out in the multiple enterprise rule (WAC 296-17-390).

Once the employer's basic classification has been established, the department must determine whether additional classifications should be assigned to apply to specific employments within an employer's business such as the standard exception rule (WAC 296-17-440), the general exclusion rule (WAC 296-17-430), the special exception rule (WAC 296-17-441), or those indicated by the language of any applicable basic classifications that permit or require separate reporting of any operations within that business or industry or as otherwise provided by this chapter.

(3) Premium payments – quarterly reports. Each employer shall, upon such forms as prescribed by the department, prior to the last day of January, April, July and October of each year, pay to the department for the preceding calendar quarter, for the accident fund, and for the medical aid fund, a certain number of cents for

each worker hour or fraction thereof worked by the worker in their employ except when the rules of this manual provide for a different method of premium computation. Provided, that in the event an employer has no employment subject to coverage under Title 51 RCW during a calendar quarter the employer shall submit to the department, according to the schedule described above, a quarterly report indicating "no payroll" or be subject to the penalties provided for in RCW ((51.48-.030)) 51.48.210. The director may promulgate, change and revise such rates at such times as necessary, according to the condition of the accident and medical aid funds, and assign rates as appropriate to employers who voluntarily seek coverage under the elective adoption provisions of the law.

(4) Determining accident fund premium. The amounts to be paid into the accident fund shall be determined as follows: The department shall determine a manual premium rate for each classification which shall not be inadequate, excessive or unfairly discriminatory, taking into consideration past and prospective costs in each classification and the financial condition of the accident fund as a whole.

Every employer shall pay into the accident fund at the manual premium rate unless such employer meets the requirements for the experience rating plan provided elsewhere in this manual, in which event such employer's premium rate for the accident fund shall be paid according to their experience modification as determined under the experience rating plan.

(5) Basis for determining medical aid premium. The amounts to be paid into the medical aid fund shall be determined as follows: The department shall determine a manual medical aid rate for each classification which shall not be inadequate, excessive or unfairly discriminatory, taking into consideration past and prospective costs in each classification and the financial condition of the medical aid fund as a whole.

Every employer shall pay into the medical aid fund at the manual premium rate unless such employer meets the requirements for the experience rating plan provided elsewhere in this manual, in which event such employer's premium rate for the medical aid fund shall be paid according to their experience modification as determined under the experience rating plan.

(6) All section captions or titles or catch lines used in this manual, chapter 296-17 WAC, do not constitute any part of these rules.

(7) Assignment of classifications. The classifications in this manual are all basic classifications other than the standard exception classifications which are defined in WAC 296-17-440. Basic classifications are used to implement the object of the classification system, which is to assign the one basic classification which best describes the business of the employer within this state. Each basic classification includes all the various types of labor found in a business unless it is specifically excluded by language contained within the classification or covered by a separate rule found elsewhere in this chapter, such as "standard exceptions" or "general exclusions." The classification procedure used within this state is intended to classify the business undertaking of the employer and

not the separate employments, occupations, or operations of individuals within a business.

In the event an employer operates a secondary business within this state, multiple basic classifications can be assigned provided that the conditions set forth in WAC 296-17-390 "multiple enterprises" have been met. However, construction or erection operations are to be assigned classifications as provided in ((subsection (8) of this section)) WAC 296-17-45003 "Special construction industry rules".

(8) ((Construction or erection operations. Each distinct type of construction or erection operation at a job site or location shall be assigned to the basic classification describing that operation provided separate payroll records are maintained for each operation. In the event separate payroll records are not maintained the entire number of worker hours for such operations shall be assigned to the highest rated classification which applies to the job site or location where the operation is performed. Separate construction or erection classifications shall not be assigned to any operation which is within the scope of another basic classification assigned to such a job site or location. (9))) Classification assignment of separate legal entities. Each separate legal entity shall be assigned to the basic classification or classifications which best describe its operations within the state using the classification procedures outlined in subsections (2)((;)) and (7)((; and (8))) of this section and WAC 296-17-45003.

((10))) (9) All operations. Each basic classification in this manual, other than classifications 4806, 4904, 5206, 6301, 6302, 6303, 7101, or the temporary help classifications 7104 through 7121, include all the operations normally associated with the business undertaking without regard to the location(s) of such operation(s) unless an operation is specifically excluded from the manual language of the basic classification.

AMENDATORY SECTION (Amending Order 89-07, filed 7/20/89, effective 8/20/89)

WAC 296-17-350 MINIMUM PREMIUMS—ASSUMED WORKER HOURS. A minimum premium is the lowest amount of premium to be paid by an employer and is also the basis for determining premium computation for workers for whom an assumed number of worker hours must be, and hereby, is established:

(1) Minimum premium. Except as otherwise provided in this chapter, every employer shall be liable for a premium not less than ten dollars for any calendar quarter regardless of number of worker hours reported.

(2) Excluded employments. Any employer having any person in their employ excluded from industrial insurance whose application for coverage under the elective adoption provisions of RCW 51.12.110 or authority of RCW 51.12.095 or 51.32.030 has been accepted by the director shall report and pay premium on the actual hours worked for each such person who is paid on an hourly, salaried—part time, percentage of profit or piece basis; or one hundred sixty hours per month for any such person paid on a salary basis employed full time. In the event records disclosing actual hours worked are not

maintained by the employer for any person paid on an hourly, salaried—part time, percentage of profits or piece basis the worker hours of such person shall be determined by dividing the gross wages of such person by the state minimum wage for the purpose of premium calculation. However, when applying the state minimum wage the maximum number of hours assessed for a month will be one hundred sixty.

(3) Resident managers, caretakers, or similar employees that are employed for irregular periods and whose compensation is for a stipulated sum in money or a substitute for money shall be reported for the purpose of premium calculation as provided in subsection (6) of this section.

(4) Commission personnel. Commission personnel are persons whose compensation is based upon a percentage of the amount charged for the commodity or service rendered. Commission personnel are to be reported for premium purposes at a minimum of assumed worker hours of not less than eight worker hours a day for part-time employment, or not less than 40 worker hours per week for full-time employment((: PROVIDED, That the assumed eight worker hours daily for part-time employment will apply only if the employer's books and records are maintained so as to show separately such person's actual record of employment)) unless the employer maintains and presents to the department's representative at the time of audit payroll records that show in detail the name of each such commissioned worker, the actual number of hours worked for each such worker and the date or dates the services were rendered. If actual time records are maintained then such actual hours shall be reported to the department and premiums paid on such actual hours.

(5) Salaried personnel. Salaried personnel for the purposes of this chapter means persons whose compensation is not governed by the number of hours devoted to employment for their employer. Employers having salaried personnel in their employ shall for the purpose of premium calculation report assumed worker hours based upon one hundred sixty worker hours for each month in which the employee is on salary: PROVIDED, That if the employer maintains complete and accurate records, supported by original time cards or timebook entries, the employer may report and pay premium on the actual hours worked by salaried personnel: PROVIDED FURTHER, That the department may, at its discretion, authorize some other method in assuming workers hours for premium calculating purposes in the case of contract personnel employed by schools and/or school districts.

(6) Piece workers. For employees whose compensation is based upon the accomplishment of a number of individual tasks whether computed on the number of pounds, items, pieces, or otherwise who are not subject to any federal or state law or rule which requires the reporting of actual hours worked, the employer shall for the purpose of premium calculation assume each two dollars of earnings of each employee as representing one worker hour: PROVIDED, That if the average rate of compensation for the applicable classification is at least \$3.00 but less than \$3.50 per worker hour the assumed amount shall be \$3.00 of earnings as representing one

worker hour, and on a progressive basis, if the average compensation is at least \$3.50 but less than \$4.00 the assumed amount shall be \$3.50 of earnings as representing one worker hour, and so forth. The records of the department as compiled for the preceding fiscal year ending June 30, shall be the basis for determining the average rate of compensation for each classification: PROVIDED FURTHER, That an employer who maintains records but is not required to do so shall report the actual hours worked for the purpose of premium calculation. In the event an employer who is otherwise required by federal or state laws or rules to maintain records of actual hours worked by each employee fails to do so, the worker hours of such employees will be determined by dividing the gross wages of each employee by the state minimum hourly wage to determine the hours reported for the purpose of premium calculation. Notwithstanding any other provisions of this section, workers employed in a work activity center pursuant to WAC 296-17-779 shall be reported on the basis of the piece worker rule.

(7) Noncontact sports teams. All employers having personnel in their employ as defined under WAC 296-17-745 shall for the purpose of premium calculations, report assumed worker hours based upon 40 worker hours for each week in which any duties are performed.

(8) All employers having personnel in their employ as defined under WAC 296-17-739 shall, for the purpose of premium calculations, report assumed worker hours based upon ten hours for each mount in each horse race; professional drivers shall report worker hours based upon ten hours for each heat or race of any racing event: PROVIDED, That any day such personnel do not ride or drive in a race, the premium calculation shall be made by assuming ten worker hours for any day in which duties are performed.

(9) Pilots and flight crew members having flight duties during a work shift including preflight time shall have premium calculated by utilizing daily readings logged per federal requirements of the aircraft tachometer time: PROVIDED, That if the total tachometer time for any day includes a fraction of an hour, the reportable time will be increased to the next full hour: PROVIDED FURTHER, That pilots and flight crew members who assume nonflying duties during a work shift will have premium calculated in accordance with the appropriate rules and classifications applicable to nonflight duties.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-370 GOVERNING CLASSIFICATION. The governing classification of a risk is defined as that classification, other than classifications 4806, 4904, 5206, 6301, 6302, 6303, 7101 or temporary help classifications 7104 through ((7109)) 7121, which carries the largest number of worker hours. Provided, that this rule is only applicable when multiple basic classifications are to be assigned to an employer's business undertakings.

AMENDATORY SECTION (Amending Order 85-7, filed 2/28/85, effective 4/1/85)

WAC 296-17-410 DIVISION OF SINGLE EMPLOYEE'S WORKER HOURS. The worker hours of any one employee may be divided between two or more classifications, provided the employer has maintained complete and accurate records supported by original time cards or time book entries which show separately both by individual employee and in summary by operations performed the worker hours of such employees, except such division **SHALL NOT BE ALLOWED:**

(1) Between a basic classification and standard exception classification unless specifically provided for in other rules(:);

(2) Between two standard exception classifications(:);

(3) If the division is contrary to the classification phraseology; or

(4) If the division is prohibited by some other general or special rule found elsewhere in this chapter.

If the employer fails to keep complete and accurate records as provided in this rule, the entire number of worker hours of the employee shall be assigned to the highest rated classification representing any part of their work. Division of worker hours by means of percentages, averages, estimates, or any basis other than specific time records, shall not be accepted by the department.

AMENDATORY SECTION (Amending Order 87-26, filed 12/1/87, effective 1/1/88)

WAC 296-17-440 STANDARD EXCEPTIONS. The following employments referred to as standard exceptions are to be separately rated unless these employments are specifically included within the scope of a basic classification by use of words such as "including clerical office and outside sales." (Use of the words "clerical office" will also include draftsmen and use of the words "sales personnel" will also include collectors, messengers and corporate officers.) Provided that a division of a single employee's worker hours shall not be permitted between two standard exception classifications or between a standard exception classification and a basic business classification except as provided in the general exclusion rules of this manual.

The standard exceptions are defined below:

(1) Clerical office employees are defined as those employees whose duties are confined to keeping the books or records of the employer, or conducting correspondence or who are engaged wholly in office work where such books or records are kept or where such correspondence is conducted, having no other duty of any nature in or about the employer's premises. If any clerical office employee is exposed to any operative hazard of the business, their entire worker hours shall be assigned to the highest rated classification of work to which they are exposed. The clerical office classification shall be applied only to persons as herein described who are employed exclusively in separate buildings or on separate floors of buildings or in departments on such floors which are physically separated from all other work areas of the employer by structural partitions and within which no

work is performed other than clerical office duties as defined in this paragraph.

(2) Draftsmen will be considered to be clerical office employees when their duties are limited to office work only and who are engaged strictly as draftsmen in such a manner that they are not exposed to the operative hazard of the business. If any draftsman is exposed to any operative hazard of this business, their entire worker hours shall be assigned to the highest rated classification of work to which they are exposed.

(3) "Sales personnel - outside" are defined as those employees engaged in such duties away from the premises of the employer who sell or solicit new accounts or customers for the employer or who service existing accounts or customers for the employer. Provided that no employee shall be assigned to a sales classification code if their duties include delivery, even though they may also solicit or collect. Employees having delivery duties, even if they walk or use public transportation, shall be assigned to the governing classification of the employer.

(4) Messengers will be considered sales employees, provided the following conditions are met:

(a) The messenger is used solely by the employer in connection with the administration of the employer's business operation.

(b) The operation is not provided to the public as a general delivery service.

(c) The employer's basic classification does not include the standard exception classification designations.

If all the above conditions do not exist, any employee assigned such duties shall be assigned to the governing classification of the employer when multiple basic classifications are assigned or to the basic classification in the event an employer has only a single basic classification assigned.

(5) Corporate officers are defined as those employees of a corporation elected and empowered in accordance with the articles of incorporation or bylaws as officers of the corporation who are also shareholders and serve on the board of directors of the corporation and whose duties are limited to administrative, clerical office and outside sales activities for the corporations. Any corporate officer who performs any duty that relates directly to the operational activities of the business shall be assigned to the basic classification(s) of the employer applicable to the work being performed. A corporate officer engaged exclusively in outside sales shall be assigned classification 6303. In no event however will a corporate officer be assigned the clerical office classification 4904.

With the exceptions of occupations falling within any classification that specifically includes clerical office, inside draftsmen or sales personnel, the following designated occupational classifications shall apply.

Classification 4904 clerical office employees including inside draftsmen.

Classification 6303 sales personnel, outside or away from the employers premises including collectors and messengers.

Classification 6301 automobile, truck, camper, trailer, mobile home, motorcycle and pleasure craft sales personnel.

Classification 6302 all door to door sales personnel.

Classification 7101 corporate officers.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-441 SPECIAL EXCEPTIONS. The following operations referred to as special exceptions are subject to division of worker hours in connection with all other classifications regardless of directional phrases beginning with "all employees" or "all operations," but only under the specific circumstances as shall be described by the following special exceptions:

(1) Security guards shall be subject to classification 6601 (WAC 296-17-723): PROVIDED, The security guard is an employee of an employer engaged in logging or construction: PROVIDED FURTHER, The security guard is for the purpose of guarding the employer's logging or construction sites: AND PROVIDED FURTHER, The security guard is employed at the site only during those hours that the employer is not conducting any other operations at the site and provided any person employed as a security guard will have no other duties.

(2) Janitors shall be subject to classification 6602 (WAC 296-17-724): PROVIDED, The janitorial services are performed solely within the employer's office: PROVIDED FURTHER, The employer's other office employment is subject to classification 4904 (WAC 296-17-653) and provided the person employed to perform janitorial services is not otherwise regularly employed by the employer with clerical office duties that are subject to reporting under classification 4904.

(3) Logging truck drivers employed by logging companies shall be subject to classification 5003 (WAC 296-17-66001), provided this classification shall not apply to any logging truck driver for any work shift during which the driver has duties that would otherwise be subject to classification 5001 (WAC 296-17-659).

((4) Construction or erection contractors permanent yard or shop employees shall be subject to classification 5206 (WAC 296-17-675), provided that this classification shall not apply to any yard or shop employee during any work shift in which the yard or shop employee has duties subject to another classification, or if the classification assigned to the employer requires a separate treatment for shop operations.))

AMENDATORY SECTION (Amending Order 89-11, filed 8/31/89, effective 10/1/89)

WAC 296-17-45002 SPECIAL TRUCKING INDUSTRY ((INTERPRETATIONS)) RULES. The following subsection shall apply to all trucking industry employers as applicable.

(1) Insurance liability. Every trucking industry employer operating as an intrastate carrier or a combined intrastate and interstate carrier must insure their workers' compensation insurance liability through the Washington state fund or be self-insured with the state of Washington.

Washington employers operating exclusively in interstate or foreign commerce or any combination of interstate and foreign commerce must insure their workers' compensation insurance liability for their Washington

employees with the Washington state fund, be self-insured with the state of Washington, or provide workers' compensation insurance for their Washington employees under the laws of another state when such other state law provides for such coverage.

Interstate or foreign commerce trucking employers who insure their workers' compensation insurance liability under the laws of another state must provide the department with copies of their current policy and applicable endorsements upon request.

Employers who elect to insure their workers' compensation insurance liability under the laws of another state and who fail to provide updated policy information when requested to do so will be declared an unregistered employer and subject to all the penalties contained in Title 51 RCW.

(2) **Reporting.** Trucking industry employers insuring their workers' compensation insurance liability with the Washington state fund shall keep and preserve all original time records/books including supporting information from drivers' logs for a period of three calendar years plus three months.

Employers are to report actual hours worked, including time spent loading and unloading trucks, for each driver in their employ. For purposes of this section, actual hours worked does not include time spent during lunch or rest periods or overnight lodging.

Failure of employers to keep accurate records of actual hours worked by their employees will result in the department estimating work hours by dividing gross payroll wages by the state minimum wage for each worker for whom records were not kept. However, in no case will the estimated hours exceed five hundred twenty hours per calendar quarter for each worker.

(3) **Exclusions.** Trucking industry employers meeting all of the following conditions are exempted from mandatory coverage.

(a) Must be engaged exclusively in interstate or foreign commerce.

(b) Must have elected to cover their Washington workers on a voluntary basis under the Washington state fund and must have elected such coverage in writing on forms provided by the department.

(c) After having elected coverage, withdrew such coverage in writing to the department on or before January 2, 1987.

If all the conditions set forth in (a), (b), and (c) of this subsection have not been met, employers must insure their workers' compensation insurance liability with the Washington state fund or under the laws of another state.

(4) **Definitions.** For purposes of interpretation of RCW 51.12.095(1) and administration of this section, the following terms shall have the meanings given below:

(a) "Agents" means individuals hired to perform services for the interstate or foreign commerce carrier that are intended to be carried out by the individual and not contracted out to others but does not include owner operators as defined in RCW 51.12.095(1).

(b) "Contacts" means locations at which freight, merchandise, or goods are picked up or dropped off within the boundaries of this state.

(c) "Doing business" means having any terminals, agents or contacts within the boundaries of this state.

(d) "Employees" means the same as the term "worker" as contained in RCW 51.08.180.

(e) "Terminals" means a physical location wherein the business activities (operations) of the trucking company are conducted on a routine basis. Terminals will generally include loading or shipping docks, warehouse space, dispatch offices and may also include administrative offices.

(f) "Washington" shall be used to limit the scope of the term "employees." When used with the term "employees" it will require the following test for benefit purposes (all conditions must be met).

(i) The individual must be hired in Washington or must have been transferred to Washington; and

(ii) The individual must perform some work in Washington (i.e., driving, loading, or unloading trucks).

NEW SECTION

WAC 296-17-45003 SPECIAL CONSTRUCTION INDUSTRY RULE. (1) Construction or erection operations. Each distinct type of construction or erection operation at a job site or location shall be assigned to the basic classification describing that operation provided separate payroll/time records are maintained for each such operation and which show in detail the name, rate of pay, and actual hours worked for each employee.

In the event payroll/time records are not maintained to support separate classification assignments the entire number of work hours in question shall be assigned to the highest rated classification which applies to the job site or location where the operation is being performed. The department may upon request by an employer (contractor) prior to the commencement of a contract authorize the use of a single basic classification to cover an entire project.

Selection of the basic classification will be determined by estimating the work hours for each construction operation at the site or location and calculating the premiums by each applicable classification—total estimated premiums will then be divided by the total estimated hours to produce an average rate. The basic classification assigned to the employer that carries the rate nearest to the estimated average rate will be selected provided that if the estimated average rate is equally between two classifications assigned to the employer the lower of the two rates will be selected.

Separate construction or erection classifications shall not be assigned to any operation which is within the scope of another basic classification assigned to such a job site or location. For example a carpenter employed by a concrete contractor to build foundation forms is to be assigned to a concrete construction classification and not a carpentry classification.

(2) Subcontracted work. The general contractor or specialist contractor as defined in RCW 18.27.010, as the case may be who subcontracts work out to others must ensure that such subcontractors are properly registered and licensed under chapter 18.27 or 19.28 RCW

as applicable to avoid being held liable for industrial insurance premiums for such subcontractors (RCW 51-12.070). At the time of audit or within thirty days thereafter the general contractor or specialist contractor as the case may be who has subcontracted work out to others must provide the department's traveling auditors, agents or assistants a list containing the names of such subcontractors, their contractors registration of license number, the expiration date of such registration or license, and their uniform business identifier or industrial insurance account number. Failure by the general contractor or specialist contractor to provide this record at the time of audit may result in a premium assessment being made for each subcontractor used by the general contractor or specialist contractor.

(3) Debris removal. Work hours related to the removal of construction materials equipment or debris from a job site or location by employees of a general contractor or specialist contractor are to be assigned to the construction classification applicable to the phase of construction work being supported by such clean up personnel. However, if clean up personnel are involved in general job site or location clean up then risk classification 0510 or 0518 will apply as applicable to the job site or location. Employees of a specialist contractor engaged exclusively in debris removal services shall be assigned to risk classification 0510 or 0518 as applicable to the job site or location serviced.

(4) Scaffolding, hoists, and towers. Work hours related to the installation, maintenance or removal of scaffolding, hod hoists, distributing towers, sidewalk bridges, and elevators by employees of a general contractor or specialist contractor are to be assigned to the construction classification applicable to the phase of construction being supported. However, if the scaffolding, hod hoists, distributing towers, sidewalk bridges and elevators being installed supports several phases of construction then risk classification 0510 or 0518 will apply as applicable to the jobsite or location. Employees of a specialist contractor engaged exclusively in work described in this subsection shall be assigned to risk classification 0510 or 0518 as applicable to the job site or location.

(5) Preoccupancy clean up. Work hours related to preoccupancy clean up by employees of a general contractor or specialist contractor are to be assigned to classification 6602 "Janitors, N.O.C." provided that the term "preoccupancy clean up" for purposes of this rule is limited in scope to dusting, washing windows, vacuuming carpets, mopping floors, and cleaning fixtures. A division of individual work hours between classification 6602 and any construction, erection, or shop classification is not allowed. Employees having duties that fall within a construction classification and who are also engaged in preoccupancy clean up are to be reported in the applicable construction classification.

(6) Shop or yard operations. Construction or erection contractors who maintain a permanent shop or yard operation may report the work hours of such employees in classification 5206, provided that this classification shall not apply to any yard or shop employee during any work

shift in which the yard or shop employee has duties subject to another classification or if the classification assigned to the employer requires a separate treatment for shop operations.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-50601 CLASSIFICATION 0107.

((Coaxial cable and conduit underground construction, maintenance and repair - including use of automatic cable laying equipment and including television cable, N.O.C.))

Pipelaying, N.O.C.

Utility line construction: Underground type, N.O.C. - including television cable, power, and telephone lines.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-50602 CLASSIFICATION 0108.

Ditches and canals, N.O.C.

Sewer construction

Septic tank installation, including drainfield construction.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-509 CLASSIFICATION 0202.

Diving operations and subaqueous work, N.O.C.

Pile driving or concrete piling construction

Wharf, pier, dock and marine railway: Construction, maintenance, and repair.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-50904 CLASSIFICATION 0206.

Commercial concrete construction such as but not limited to ((building foundations,)) sewage disposal plants, swimming pools, fish hatcheries, water purification plants construction, and similar concrete projects

This classification will be used to report concrete construction projects other than concrete building construction reported in risk classification 0505; concrete construction done in connection with wood frame building construction reported in risk classification 0102; highway, street, and road construction projects reported in risk classification 0101; and bridge construction projects reported in risk classification 0201.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-519 CLASSIFICATION 0504.

((Wallboard taping and texturing, excluding wallboard installation rated under risk classification 0515 (WAC 296-17-52107)))

Painting bridges, including incidental preparation work

Painting, decorating or paperhanging, N.O.C., including incidental preparation, including shop

Waterproofing, N.O.C. excludes roofing or subaqueous work
Painting, coating or cleaning oil or gas storage tanks and beer vats
Painting towers, smokestacks and steel or iron structures:)
Cleaning, washing, and/or sandblasting buildings, N.O.C. – including shop operations
Painting bridges, including incidental preparation work
Painting, coating or cleaning oil or gas storage tanks and beer vats
Painting, decorating or paperhanging, N.O.C., including incidental preparation, including shop
Painting towers, smokestacks and steel or iron structures
Plastering, stuccoing, and lathing buildings – interior work
Sandblasting, N.O.C., including shop operations
Wallboard taping and texturing, excluding wallboard installation rated under risk classification 0515 (WAC 296-17-52107).

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-52002 CLASSIFICATION 0507.

Roofwork, all types, construction and repair

This classification excludes roof cleaning and moss removal ((rated)) which is to be reported separately under risk classification 6602 (WAC 296-17-724) not incidental to or part of a roofing contract. For purposes of this rule the term "roofwork" will include repairs to the subroof such as replacement of trusses, rafters, supports, sheathing, etc., but will not include the placement of trusses, rafters, or sheathing on new building construction.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-521 CLASSIFICATION 0508.

Blast furnace and metal burners construction

Crane or derrick installation

Elevated railway, tram, lift, etc., construction, maintenance and repair

((Erection, maintenance and repair radio, television, water towers, poles and towers, N.O.C.))

Exterior tanks – all types – erection, maintenance or repair, N.O.C.

Oil still or refinery construction. Excludes plant maintenance by contractor ((rated)) which is to be reported separately under risk classification 0603 ((WAC 296-17-524)))

Radio, television, water towers, poles and towers, N.O.C. – erection, maintenance and repair

Smokestacks((, structural iron or steel framework,)) – erection, maintenance and repair

Windmills((;)) – all types, erection, maintenance and repair, silo erection

This classification includes erection of skeletons for pillars, posts and like columns, all excavations, foundation work, and dismantling and repairing of above types of structures.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-52106 CLASSIFICATION 0514.

Awnings and fire escapes: Installation, alteration, repair or removal

Garage or overhead door installation including automatic door openers when installed with a garage or overhead door

Shutter installation: Metal, plastic or wood – including repair or removal.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-52108 CLASSIFICATION 0516.

Building repair and carpentry, N.O.C.

NEW SECTION

WAC 296-17-52109 CLASSIFICATION 0517.

Mobile home set up by contractor – including installation of skirting, awnings and decks.

NEW SECTION

WAC 296-17-52110 CLASSIFICATION 0518.

Building construction, N.O.C., including alterations or repairs.

NEW SECTION

WAC 296-17-52111 CLASSIFICATION 0519.

Building construction: Sheet metal work, N.O.C., including installation of metal/aluminum siding and gutter/downspout work. This classification covers all types of interior and exterior sheet metal other than heating and ventilating systems which are to be reported separately in risk classification 0307 and roof work which is to be reported separately in risk classification 0507.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-523 CLASSIFICATION 0602.

Elevators((, freight or passenger,)): Installation, service and repair – freight or passenger type
Elevator door bucks – installation

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-525 CLASSIFICATION 0604.

((Battery salvaging
Iron or steel scrap dealers
Junk dealers
Metals)) Scrap metal dealers or processors – collect, sort and reduction of scrap metal.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-52701 CLASSIFICATION 0608.

((Business machine and computer mini and mainframe systems: Report the installation of personal desk top computer systems separately in risk classification 4107.))

Electrical alarm systems including smoke alarms

Intercom or audio call box

Telecommunication and PBX or similar equipment

Telephone service prewire by contractor

This classification includes installation, service or repair of the above types of equipment and includes all shop or yard operations.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-532 CLASSIFICATION 0901.

((Commercial boat or)) Ship building or repair, N.O.C., all types((;)) – including dismantling of ((boat or)) ship hulls

This classification includes all ((ship)) shop and yard operations

See risk classification 3606 ((WAC 296-17-598)) for pleasure craft/recreational boat building.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-536 CLASSIFICATION 1101.

((Armoured)) Armored car service

Automobile delivery drive away, automobile reposessing

Computer tape/accounting records delivery service

Delivery by retail, wholesale, combined wholesale and retail stores and distributors, N.O.C.

Delivery companies, deliver parcels and packages, no bulk merchandise

Distribution of sample merchandise by vehicle

Driver delivery sales, N.O.C.

Drivers of sound trucks

News agents or distributors of magazines, periodicals and telephone books, no retail dealer

Route food services, excludes food preparation to be reported under risk classification 3905 (WAC 296-17-618)

Septic tank and cesspool cleaning, excludes installation or repair

Street sweeping, parking lot sweeping, portable chemical toilets servicing

Street vending vehicles.

AMENDATORY SECTION (Amending Order 86-18, filed 5/30/86, effective 7/1/86)

WAC 296-17-555 CLASSIFICATION 2002.

Freight handlers – packing, handling or shipping merchandise N.O.C.

Refrigeration car, loading, unloading or icing

This classification also includes employees engaged in repackaging of goods from damaged containers.

This classification excludes drivers or other employees with driving duties which are to be reported separately ((reported)) under risk classification 1102 ((WAC 296-17-537)) without a division of work hours.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-567 CLASSIFICATION 2401.

Paper or pulp manufacturing, wood ((fibre)) fiber manufacturing

Corrugated and ((fibre)) fiber board container manufacturing, including corrugating and laminating of paper

Paper coating, corrugating, laminating or oiling

Paper goods, N.O.C., manufacturing

Building and roofing paper including felt, manufacturing.

NEW SECTION

WAC 296-17-57603 CLASSIFICATION 3304.

Fish processors, packers and repackagers: Wholesale or combined wholesale/retail – excluding cold storage or locker operations when conducted as a separate and distinct business operation

Meat and/or poultry dealers: Wholesale or combined wholesale/retail – excluding slaughter or packing house operations which are to be reported separately in risk classification 4301 and cold storage or locker operations which are to be reported separately when conducted as a separate and distinct business operation.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-580 CLASSIFICATION 3402.

Abrasice wheel manufacturing

Air compressor manufacturing or assembly, elevator manufacturing, gear grinding or manufacturing

Automobile or truck, radiator and heater core manufacturing and repair shops

Auto body manufacturing – truck, trailer, bus body manufacturing, travel trailer body repair

Auto or motorcycle manufacturing or assembly

Auto or truck engine manufacturing, aircraft engine manufacturing or rebuild, N.O.C.

Auto or truck parts, machining or rebuild not in vehicle

Battery manufacturing ((or)), assembly ((including)) and repair: Storage type

Bed spring or wire mattress manufacturing

Confectioners machinery manufacturing or assembly, food processing machinery manufacturing or assembly, precision machined parts, N.O.C., manufacturing

Coppersmithing, shop

Die castings manufacturing

Furnace, heater or radiator manufacturing

Heat treating metal

Lead burning, metal spraying – copper

Machinery manufacturing or assembly, N.O.C.

Machine shops, N.O.C., including mobile shops, tool

sharpening and marine engine repair

Nut, bolt, screw, nail, tack, rivet, eyelet, spike and needle manufacturing, N.O.C.

Office machinery manufacturing or assembly, N.O.C., cash register and sewing machine manufacturing or assembly

Photo processing machinery manufacturing or assembly

Power saw, lawn and garden equipment and small motor repair, N.O.C.

Printing or bookbinding machinery manufacturing or assembly

Pump manufacturing or assembly, safe manufacturing or assembly, scale manufacturing or assembly including repair, auto jack manufacturing or assembly, water meter manufacturing or assembly including repair

Saw manufacturing or assembly

Sewing machine, commercial – repair and rebuild

Shoe machinery manufacturing or assembly, sprinkler head manufacturing or assembly, textile machinery manufacturing or assembly

Small arms, speedometer and carburetor manufacturing or assembly including rebuild

Tool manufacturing, machine finishing

Tool manufacturing, not hot forming or stamping, die manufacturing – ferrous

Valve manufacturing

Welding or cutting, N.O.C. including mobile operations

This is a shop or plant only classification but does contemplate work being performed in an adjacent yard when operated by an employer having operations subject to this classification. Unless outside activities are specifically provided for they are to be separately rated

This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations rated within this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-587 CLASSIFICATION 3503.

Potteries, glazed or porcelain, earthenware manufacturing

Chinaware, tableware, decorative or architectural terra cotta manufacturing

Decorative tile, clay tobacco pipes, manufacturing

Glassware manufacturing, N.O.C. including stained or leaded glassware manufacturing

Glass manufacturing, N.O.C.

((Plastic feather or flower manufacturing))

Agate or enamel ware manufacturing

((Plaster statuary or ornament manufacturing – relief map manufacturing))

Phonograph record manufacturing

Mirror, glass sign manufacturing, etching or frosting glass))

This classification does not apply to the production of raw materials for use in the manufacturing of the above articles.

NEW SECTION

WAC 296-17-59201 CLASSIFICATION 3509.

Glass frosting, etching, beveling including cutting
Plaster statuary or ornament manufacturing.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-626 CLASSIFICATION 4107.

Business machine service, adjustment, or repair, N.O.C.

This classification includes the installation of typewriters, adding machines and reproduction machines((;)) (either electric or manual), main frame and micro/minicomputer systems and x-ray equipment ((but excludes the installation service or repair of computer main frame systems which will be rated under risk classification 0608 (WAC 296-17-52701)))

Piano tuning.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-646 CLASSIFICATION 4805.

Christmas tree sales from u-cut farms or retail sales lots
Nurseries, including greenhouse operations incidental thereto

This classification applies to all acreage devoted to nursery operations and including tree nurseries and sod growing.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-64903 CLASSIFICATION 4811.

((Hop growing)) Farms: Hops – including cultivating, picking, drying and baling hops and all other operations incidental to the enterprise described above

Farms: Mint – including distillery operations when conducted in connection with a mint farm operation and when performed by employees of an employer subject to this classification.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-64904 CLASSIFICATION 4812.

Fish and shellfish hatcheries including raising, egg production, grading, harvesting and shipping

This classification excludes fish and shellfish processing which ((is)) are to be reported separately ((rated subject to)) under risk classification ((3301 (WAC 296-17-576))) 3304.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-654 CLASSIFICATION 4905.

((Apartment houses
Building and property management))
Hotels
Motels

This classification excludes restaurant and lounge employees ((rated under)) which are to be reported separately in risk classification 3905 ((WAC 296-17-618)) "restaurants, N.O.C.". Hotel and motel desk clerks with no other duties will be ((rated under)) reported separately in risk classification 4904 ((WAC 296-17-653)) "clerical office N.O.C."

NEW SECTION

WAC 296-17-65801 CLASSIFICATION 4910.

Building or property management operations by owner or lessee—including malls, apartment/condominium complexes and mobile home parks
Chimney cleaning – residential buildings.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-663 CLASSIFICATION 5103.

Foundries, ((steel castings
Type foundries, die casting manufacturing, nonferrous
Foundries, magnesium)) N.O.C.

AMENDATORY SECTION (Amending Order 88-06, filed 5/31/88, effective 7/1/88)

WAC 296-17-677 CLASSIFICATION 5301.

Accounting or bookkeeping firms
((Computer software or word processing services))
Court reporting firms
Credit bureaus
Employment agencies
Law firms

Management analyst or consulting firms, N.O.C.
Secretarial or telephone answering services

Travel agencies

Word processing services

This classification includes clerical office and sales personnel

Use of this classification is limited to employers engaged in such services being provided to the general public. This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operation to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-682 CLASSIFICATION 6105.

((Home health services))

Hospitals – N.O.C. including hospital districts

Hospitals – private proprietary

Hospitals – religious, charitable or nonprofit

((Nursing care, N.O.C.))

This classification includes clerical office and sales personnel.

NEW SECTION

WAC 296-17-68601 CLASSIFICATION 6110.

Home health services and nursing care, N.O.C.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-695 CLASSIFICATION 6209.

Camp grounds such as but not limited to church, recreational, or educational including incidental cottage or cabin rentals, boat concessions, grocery stores, and penny or video arcades

Dude ranches – excluding cattle ranches

Swimming pools – public

((Trailer or mobile home parks))

This classification includes food and beverage operations, clerical office and sales personnel physically located at the above facilities.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-707 CLASSIFICATION 6403.

Coffee, tea or spice stores – retail

Dairy products stores – retail

Delicatessens – retail, no fresh meat

Fruit or vegetable stores – retail

Grocery stores – retail, N.O.C.

This classification includes clerical office and sales personnel

((Lunch counters and restaurant operations to be separately rated)).

AMENDATORY SECTION (Amending Order 86-18, filed 5/30/86, effective 7/1/86)

WAC 296-17-708 CLASSIFICATION 6404.

Florists stores wholesale/retail

Balloon arrangement stores wholesale/retail

((Christmas tree sales – from lot/retail only))

This classification includes clerical office and sales personnel.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-715 CLASSIFICATION 6502.

Banks

Check cashing services, provided that in the event such an operation is conducted as a part of or in connection with an operation rated in classification 6406, classification 6406 will be assigned to cover both operations

Credit unions

Financial institutions, N.O.C.

Investment companies

Loan companies

Mortgage companies

Savings and loan associations

Stock brokers and escrow companies

This classification includes clerical office and sales personnel.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)**WAC 296-17-724 CLASSIFICATION 6602.**

Janitorial service – ((excluding)) including contract window cleaning

Janitors, N.O.C.

Pest control. This category applies to operations involved in the control and extermination of pests by the use of pesticides, rodenticides and fumigants

Portable cleaning and washing, N.O.C. – includes auto and truck washing, recreational vehicles and mobile homes. This category will include roof cleaning and washing of single story buildings, but only if the washing is not incidental to painting or roof repair

Swimming pool cleaning

Termite control. This category applies to operations involved in the control and extermination of termites and other wood-destroying pests or organisms by fumigation or spraying of poisonous insecticides. Does not include structural repair

Window washing services.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)**WAC 296-17-777 CLASSIFICATION 7307.**

Christmas tree farms – all operations including planting, pruning ((and)), harvesting, baling, packing and delivery

Report retail operations (i.e., cashiers, parking attendants, customer assistants, etc.) of Christmas tree undercut farms or retail sales lots in risk classification 4805 "Christmas tree sales."

AMENDATORY SECTION (Amending Order 88-30, filed 12/1/88, effective 1/1/89)

WAC 296-17-855 EXPERIENCE MODIFICATION. The basis of the experience modification shall be a comparison of the actual losses charged to an employer during the experience period with the losses which would be expected for an average employer reporting the same exposures in each classification. The comparison shall contain actuarial refinements designed to mitigate the effects of losses which may be considered catastrophic or of doubtful statistical significance, due consideration being given to the volume of the employer's experience. Except for those employers who qualify for an adjusted experience modification as specified in WAC 296-17-860 or 296-17-865, the experience modification shall be calculated from the formula:

$$Ap + WAe + (1-W) Ee + B$$

$$\text{MODIFICATION} = \frac{Ap + WAe + (1-W) Ee + B}{E + B}$$

The components Ap, WAe, and (1-W) Ee are values which shall be charged against an employer's experience record. The component, E, shall be the expected value of these charges for an average employer reporting the same exposures in each classification. The meaning and function of each symbol in the formula is specified below.

"Ap" signifies "primary actual losses." For each claim the primary actual loss is defined as that portion of the claim which is considered completely rateable for all employers and which is to enter the experience modification calculation at its full value. For each claim in excess of \$((8,360)) 7,808 the primary actual loss shall be determined from the formula:

$$\text{Primary loss} = \frac{((20,900)) 19,520}{\text{Total loss} + ((+2,540)) 11,712} \times \text{total loss}$$

Primary actual losses for selected claim values are shown in Table I. For each claim less than \$((8,360)) 7,808 the full value of the claim shall be considered a primary loss.

"Ae" signifies "excess actual losses." For each claim the excess actual loss is defined as that portion of the claim which is not considered completely rateable for all employers. The excess actual loss for each claim shall be determined by subtracting the primary loss from the total loss.

"W" signifies "W value." For each employer, the W value determines the portion of the actual excess losses which shall be included in the calculation of his experience modification, due consideration being given to the volume of his experience. This amount is represented by the symbol "WAe" in the experience modification formula. W values are set forth in Table II.

"E" signifies "expected losses." An employer's expected losses shall be determined by multiplying his reported exposure in each classification during the experience period by the classification expected loss rate. Expected loss rates are set forth in Table III.

"Ee" signifies "expected excess losses." Expected losses in each classification shall be multiplied by the classification "D-Ratio" to obtain "expected primary losses." Expected excess losses shall then be calculated by subtracting expected primary losses from expected total losses. Each employer shall have a statistical charge included in the calculation of his experience modification, said charge to be actuarially equivalent to the amount forgiven an average employer because of the exclusion of a portion of his excess actual losses. This charge is represented by "(1-W) Ee" in the experience modification formula. D-Ratios are set forth in Table III.

"B" signifies "B value" or "ballast." In order to limit the effect of a single severe accident on the modification of a small employer, a stabilizing element (B value) shall be added to both actual and expected losses. B values are set forth in Table II.

AMENDATORY SECTION (Amending Order 88-30, filed 12/1/88, effective 1/1/89)

WAC 296-17-86501 BUILDING INDUSTRY EXPERIENCE MODIFICATION LIMITATIONS. The premiums of building construction employers subject to the risk classifications 0505, 0506, 0507, 0510, 0511, 0512, 0513, 0514, 0515, ((and)) 0516, 0517, 0518, and 0519 shall be experience rated beginning January 1, 1988, using the reported past experience of such employers as provided for in the department's experience

rating plan. However, the initial experience rating adjustment of these classifications for each such employer shall be made from a base modification of 1.0000, with adjustments limited to twenty-five percent annually until the actual experience rating developed by the department for each such employer has been reached or four years from the effective date of this section whichever comes first. Thereafter, adjustments will be made in accordance with the parameters established by the department's experience rating plan. Premiums of building construction employers reported in all other risk classifications not specifically listed above which are currently experience rated are not subject to the limitations imposed by this section and shall be computed utilizing the actual earned experience rating of each building construction employer, in accordance with the department's experience rating plan.

AMENDATORY SECTION (Amending Order 88-30, filed 12/1/88, effective 1/1/89)

WAC 296-17-870 EVALUATION OF ACTUAL LOSSES. Except as provided in the following subsections of this paragraph, actual losses shall include all payments as of the "valuation date" for each claim arising from an accident occurring during the experience period. Losses for claims open as of the valuation date may also include a reserve for future payments. Actual losses on claims for accidents occurring outside of the experience period shall not be included.

(1) **Valuation date.** The valuation date shall be on and include December 31, one year and one day immediately preceding the effective date of premium rates as set forth in WAC 296-17-895. For experience modifications effective January 1, 1990, the valuation date shall be June 1, seven months immediately preceding the effective date of premium rates.

(2) **Retroactive adjustments – revision of losses between valuation dates.** No claim value shall be revised between valuation dates and no retroactive adjustment of an experience modification shall be made because of disputation concerning the judgment of the claims examiner or because of subsequent developments except as specifically provided in the following cases:

(a) In cases where loss values are included or excluded through mistake other than error of judgment.

(b) In cases where a third party recovery is made.

(c) In cases where the claim qualifies as a second injury claim under the provisions of RCW 51.16.120.

(d) In cases where a claim, which was previously evaluated as a compensable claim, is closed and is determined to be noncompensable (ineligible for benefits other than medical treatment).

(e) In cases where a claim is closed and is determined to be ineligible for any benefits.

In the above specified cases retroactive adjustment of the experience modification shall be made for each rating in which the claim was included. Retroactive adjustments will not be made for rating periods more than ten years prior to the date on which the claim status was changed.

(3) **Average death value.** Each fatality occurring to a worker included within the mandatory or elective coverage of Title 51 RCW shall be assigned the "average death value," said value to be the average incurred cost for all such fatalities occurring during the experience period. The average death value is set forth in Table II.

(4) **Third party recovery.** In the event of a third party recovery on a claim, the employer shall be charged for a portion of the actual loss amount, gross of such recovery, established on the claim for each year in which the claim's injury date falls within the experience period (see WAC 296-17-850). This portion shall be calculated at the time the recovery is made, and shall be determined by taking the ratio of the total cost of the claim, including attorneys' fees, after recovery, to the total cost of the claim before recovery. If the claim is open at the time the recovery is made, then costs before and after recovery may include an allowance for future claim payments. Both the primary and excess components of the actual loss amount shall be reduced in the same proportion.

(5) **Second injury claims.** The primary and excess values of any claim which becomes eligible for second injury relief under the provisions of RCW 51.16.120, as now or hereafter amended, shall be reduced by the percentage of relief granted.

(6) **Occupational disease claims.** When a claim results from an employee's exposure to an occupational disease hazard, the "date of injury," for the purposes of experience rating, shall be the date on which the disability was diagnosed, giving rise to the filing of a claim for benefits. The cost of any occupational disease claim, paid from the accident fund and medical aid fund and arising from exposure to the disease hazard under two or more employers, shall be prorated to each period of employment involving exposure to the hazard. Each insured employer who had employed the claimant during the experience period, and for at least ten percent of the claimant's exposure to the hazard, shall be charged for his share of the claim based upon the prorated costs.

(7) **Maximum claim value.** No claim shall enter an employer's experience record at a value greater than the "maximum claim value." The maximum claim value is set forth in Table II.

AMENDATORY SECTION (Amending Order 79-18, filed 11/30/79, effective 1/1/80)

WAC 296-17-873 STRUCTURE OF EMPLOYER CHANGES—EXPERIENCE RATING. WAC 296-17-873 through ((296-17-87309)) 296-17-87308 governs combination of entities and status changes of ownership for purposes of experience rating.

AMENDATORY SECTION (Amending Order 79-18, filed 11/30/79, effective 1/1/80)

WAC 296-17-87301 DEFINITIONS. The definitions in this section shall apply throughout WAC 296-17-873 through ((296-17-87309)) 296-17-87308.

(1) "Entity" means an individual, partnership, corporation, unincorporated association, or fiduciary operation (e.g. trust, receivership, or estate of deceased individual).

(2) "Immediate family member" as used in this rule means father, mother, husband, wife, son, daughter, stepson, stepdaughter, grandson, or granddaughter.

(3) "Majority interest" means more than fifty percent interest. If an entity other than a partnership:

(a) Has issued voting stock, majority interest means a majority of the issued voting stock. If all stock issues do not have the same number of votes per share, majority interest means a majority of the voting rights;

(b) Has not issued voting stock, majority interest means a majority of the members;

(c) Has not issued voting stock and has no members, a majority interest means a majority of the board of directors or comparable governing body.

If an entity is a partnership, majority interest means more than one-half of the general partners.

(4) "Joint venture" means a combination of two or more entities, entered into for the purpose of carrying to completion a specific job of limited duration.

AMENDATORY SECTION (Amending Order 83-36, filed 11/30/83, effective 1/1/84)

WAC 296-17-87305 CHANGE IN OWNERSHIP. (1) For the purpose of WAC 296-17-873 through ((~~296-17-87309~~)) 296-17-87308 management is considered to be vested in ownership. Except as specifically provided otherwise herein, ownership whether active or inactive, governs the administration of WAC 296-17-873 through ((~~296-17-87309~~)) 296-17-87308, and the words "nominal" and "material" denote respectively the effect of a particular change in ownership. If a change has occurred which the provisions of subsections (2) through (5) of this section denominate "nominal," the experience of the past shall be utilized for future modification. If, on the other hand, the change is denominated "material," the past experience shall be disregarded and the risk written at manual or otherwise applicable rates.

In application of WAC 296-17-873 through ((~~296-17-87309~~)) 296-17-87308, ownership changes of any entity which is neither a partnership, a joint venture, nor a corporation that has issued voting stock shall be decided in accordance with the provisions of subsections (2) through (5) of this section applicable to corporations. The provisions of sections (2) through (5) of this section shall be applied as though the entity has issued voting stock and the stock was:

(a) Held in equal amounts by each of its members; or

(b) If the entity does not have members, held in equal amounts by each member of the board of directors or comparable governing body.

Two or more changes during a twelve-month period shall be considered as a single change.

The department shall in each case determine from the applicable provisions of subsections (2) through (5) of this section whether a change is "nominal" or "material," and if no provision of subsections (2) through (5) of this section is expressly applicable it shall be governed by a consideration of WAC 296-17-873 through ((~~296-17-87309~~)) 296-17-87308 as a whole and of its several parts interpreted in the light of such relevant evidence as is offered.

(2) Individual.

(a) Death of an individual is a material change. Exception: Where a member or members of the immediate family take over the business, either as the executor, executrix, administrator, or sole owner the change is nominal.

(b) Sale of business to another is a material change. Exception: Where the sale is made to a member or members of the immediate family the change is nominal.

(c) Bankruptcy or insolvency with:

(i) Continued operation with appointment of a trustee is a nominal change;

(ii) Withdrawal of the trustee and reversion to the original owner is a nominal change;

(iii) Withdrawal of a trustee but with new owners is a material change.

(d) Formation of a living estate is a nominal change.

(e) Formation of a partnership is a material change. Exceptions:

(i) A partnership composed of only two general partners is a nominal change;

(ii) A partnership composed of members of an immediate family is a nominal change;

(iii) A limited partnership in which the individual is one of not more than two general partners is a nominal change.

(f) Formation of a corporation is a material change. Exception: If the individual or members of his immediate family own one-half or more of the issued voting stock the change is nominal.

(3) Partnership.

(a) Sale, conveyance, transfer, or assignment of partnership interest by one or more partners and the partnership not dissolved is a material change. Exceptions:

(i) If prior to the change all partners were members of an immediate family and after the change one-half or more of the general partners are members of such immediate family the change is nominal;

(ii) If one-half or more of the general partners prior to the change constitute one-half or more of the general partners after the change the change is nominal.

(b) If the partnership is dissolved the change is material. Exceptions:

(i) In a partnership wherein all partners were members of an immediate family and one or more of the members of such family constitute one-half or more of the general partners in the new partnership, or own one-half or greater interest in the new entity or entities if they are not partnerships the change is nominal;

(ii) If one-half or more of the general partners of the dissolved partnership constitute one-half or more of the general partners in the new partnership or own a one-half or greater interest in the new entity or entities if they are not a partnership the change is nominal.

(c) Bankruptcy or insolvency.

(i) Continued operation with appointment of a trustee is a nominal change.

(ii) Withdrawal of a trustee and reversion to one-half or more of the original general partners is a nominal change.

(iii) Withdrawal of a trustee with the original general partners not constituting one-half or more of the owners is a material change.

(4) Corporations.

(a) Old corporation dissolved or nonoperative, not a merger or consolidation.

(i) Formation of a new corporation is a material change. Exceptions:

(A) If the stockholders common to both the dissolved or nonoperative corporation and the newly formed corporation own or owned one-half or more of the issued voting stock in the old corporation and own one-half or more of the issued voting stock in the newly formed corporation the change is nominal;

(B) If the nonoperative corporation owns one-half or more of the issued voting stock of the newly formed corporation the change is nominal;

(C) In a family corporation (meaning a corporation whose entire issued voting stock is held by the members of an immediate family) only those changes may be considered which involve the acquisition of ownership by a person not a member of such immediate family.

(ii) Reversion to an individual is a material change. Exceptions:

(A) If the individual owns or owned one-half or more of the issued voting stock of the dissolved or nonoperative corporation the change is nominal;

(B) If the individual was a member of an immediate family which wholly owned the corporation the change is nominal.

(iii) Reversion to a partnership is a material change. Exceptions:

(A) If the stockholders who own or owned one-half or more of the issued voting stock of the dissolved or nonoperative corporation constitute one-half or more of the general partners the change is nominal;

(B) If the corporation was wholly owned by members of an immediate family and a member or members of that immediate family constitute one-half or more of the general partners the change is nominal.

(b) Transfer of voting stock, not otherwise provided for in subsections (2) through (5) of this section.

(i) If one-half or less of issued voting stock is transferred the change is nominal.

(ii) If more than one-half of issued voting stock is transferred the change is material. Exception: If the stockholders who own or owned one-half or more of the issued voting stock prior to such sale own one-half or more of the issued voting stock after such sale the change is nominal.

(iii) In a family corporation (meaning a corporation whose entire issued voting stock is held by the members of an immediate family) only those changes shall be considered which involve the acquisition of ownership by a person not a member of such immediate family.

(c) Trustees, receiverships, and similar temporary changes of management are nominal changes.

(d) In the case of consolidations or mergers of corporations the experience of all consolidated or merged corporations shall be combined for computing the modification for the consolidated or surviving corporation.

(5) Joint ventures.

(a) Any change in the membership of the joint venture is a material change.

(b) A nominal change in the ownership of one of the joint venturers is a nominal change.

(c) A material change in the ownership of one of the joint venturers is a material change.

(d) The experience of a joint venture shall be continued for other operations which may be undertaken, as a joint venture, by the same group of joint venturers, either during the same time as the original venture or at a later date.

(e) Members of a joint venture may subcontract part or all of their operations to one or more of the joint venturers. Work thus subcontracted becomes a regular part of the subcontractor's operations and is subject to his experience modification.

(6) Notwithstanding any of the provisions contained in this section the past experience of any single employing entity either corporate, partnership, or otherwise shall not be utilized for future modification by more than one newly formed employing entity either corporate, partnership, or otherwise. The following guidelines will be used in cases where two previous co-owners of a firm would both otherwise be individually entitled to the past experience of the firm based on their previous fifty percent ownership.

(a) If the change in the ownership of the firm was nominal, the experience will remain with the firm and belong to the new owners. Neither previous co-owner shall be entitled to the experience, except, coincidentally, by his or her continuing ownership interest in the ongoing firm.

(b) If the change in ownership was material or the firm was discontinued, and only one of the previous co-owners has an ongoing state fund account, the experience shall be assigned to the previous co-owner with the ongoing account.

(c) If the change in ownership was material, or the business was discontinued, and both previous co-owners have ongoing state fund accounts, the experience shall not be assigned to either of the previous co-owners.

Assignment of past experience to an entity in accordance with the above priorities will be final, unless it shall be determined that there was an error or misrepresentation which caused the experience to be assigned incorrectly. The assignment of experience shall not be altered by a subsequent change in status of any of the interested parties which would have changed the priority of their claim to the experience.

AMENDATORY SECTION (Amending Order 88-30, filed 12/1/88, effective 1/1/89)

WAC 296-17-875 TABLE I.

Primary Losses for Selected Claim Values

CLAIM VALUE	PRIMARY LOSS
((8,360	8,360
9,484	9,000
11,505	+0,000
13,933	11,000

CLAIM VALUE	PRIMARY LOSS	Expected Losses	B	W
16,908	12,000	173,717	181,287	27,604 0.30
25,443	14,000	181,288	189,011	27,209 0.31
40,947	16,000	189,012	196,894	26,815 0.32
77,834	18,000	196,895	204,943	26,421 0.33
110,259*	18,766	204,944	213,162	26,026 0.34
209,000***	19,717))	213,163	221,556	25,632 0.35
7,808	7,808	221,557	230,132	25,238 0.36
8,133	8,000	230,133	238,896	24,843 0.37
10,020	9,000	238,897	247,855	24,449 0.38
12,303	10,000	247,856	257,016	24,055 0.39
15,121	11,000	257,017	266,385	23,660 0.40
18,689	12,000	266,386	275,970	23,266 0.41
29,704	14,000	275,971	285,780	22,872 0.42
53,236	16,000	285,781	295,822	22,477 0.43
116,981*	17,744	295,823	306,105	22,083 0.44
195,200**	18,415	306,106	316,639	21,689 0.45

* Average death value

** Maximum claim value

AMENDATORY SECTION (Amending Order 88-30,
filed 12/1/88, effective 1/1/89)

WAC 296-17-880 TABLE II.

(("B" and "W" Values

Maximum Claim Value = \$209,000

Average Death Value = \$110,259

Expected Losses	B	W
4,527 & Under	39,434	0.00
4,528 - 9,124	39,040	0.01
9,125 - 13,788	38,645	0.02
13,789 - 18,523	38,251	0.03
18,524 - 23,331	37,857	0.04
23,332 - 28,212	37,462	0.05
28,213 - 33,170	37,068	0.06
33,171 - 38,206	36,674	0.07
38,207 - 43,322	36,279	0.08
43,323 - 48,520	35,885	0.09
48,521 - 53,802	35,491	0.10
53,803 - 59,171	35,096	0.11
59,172 - 64,628	34,702	0.12
64,629 - 70,177	34,308	0.13
70,178 - 75,820	33,913	0.14
75,821 - 81,558	33,519	0.15
81,559 - 87,397	33,125	0.16
87,398 - 93,336	32,730	0.17
93,337 - 99,380	32,336	0.18
99,381 - 105,532	31,942	0.19
105,533 - 111,794	31,547	0.20
111,795 - 118,170	31,153	0.21
118,171 - 124,665	30,759	0.22
124,666 - 131,279	30,364	0.23
131,280 - 138,017	29,970	0.24
138,018 - 144,885	29,576	0.25
144,886 - 151,884	29,181	0.26
151,885 - 159,020	28,787	0.27
159,021 - 166,295	28,392	0.28
166,296 - 173,716	27,998	0.29

173,717 - 181,287	27,604 0.30
181,288 - 189,011	27,209 0.31
189,012 - 196,894	26,815 0.32
196,895 - 204,943	26,421 0.33
204,944 - 213,162	26,026 0.34
213,163 - 221,556	25,632 0.35
221,557 - 230,132	25,238 0.36
230,133 - 238,896	24,843 0.37
238,897 - 247,855	24,449 0.38
247,856 - 257,016	24,055 0.39
257,017 - 266,385	23,660 0.40
266,386 - 275,970	23,266 0.41
275,971 - 285,780	22,872 0.42
285,781 - 295,822	22,477 0.43
295,823 - 306,105	22,083 0.44
306,106 - 316,639	21,689 0.45
316,640 - 327,432	21,294 0.46
327,433 - 338,496	20,900 0.47
338,497 - 349,841	20,506 0.48
349,842 - 361,477	20,111 0.49
361,478 - 373,417	19,717 0.50
373,418 - 385,674	19,323 0.51
385,675 - 398,260	18,928 0.52
398,261 - 411,189	18,534 0.53
411,190 - 424,478	18,140 0.54
424,479 - 438,139	17,745 0.55
438,140 - 452,190	17,351 0.56
452,191 - 466,650	16,957 0.57
466,651 - 481,535	16,562 0.58
481,536 - 496,867	16,168 0.59
496,868 - 512,665	15,774 0.60
512,666 - 528,952	15,379 0.61
528,953 - 545,752	14,985 0.62
545,753 - 563,090	14,591 0.63
563,091 - 580,993	14,196 0.64
580,994 - 599,488	13,802 0.65
599,489 - 618,609	13,408 0.66
618,610 - 638,386	13,013 0.67
638,387 - 658,856	12,619 0.68
658,857 - 680,056	12,225 0.69
680,057 - 702,026	11,830 0.70
702,027 - 724,810	11,436 0.71
724,811 - 748,456	11,042 0.72
748,457 - 773,013	10,647 0.73
773,014 - 798,537	10,253 0.74
798,538 - 825,086	9,858 0.75
825,087 - 852,725	9,464 0.76
852,726 - 881,525	9,070 0.77
881,526 - 911,558	8,675 0.78
911,559 - 942,909	8,281 0.79
942,910 - 975,667	7,887 0.80
975,668 - 1,009,930	7,492 0.81
1,009,931 - 1,045,806	7,098 0.82
1,045,807 - 1,083,414	6,704 0.83
1,083,415 - 1,122,881	6,309 0.84
1,122,882 - 1,164,352	5,915 0.85
1,164,353 - 1,207,986	5,521 0.86
1,207,987 - 1,253,956	5,126 0.87
1,253,957 - 1,302,459	4,732 0.88
1,302,460 - 1,353,711	4,338 0.89

<u>Expected Losses</u>	B	W
1,353,712	-1,407,954	3,943 0.90
1,407,955	=1,465,460	3,549 0.91
1,465,461	=1,526,537	3,155 0.92
1,526,538	-1,591,528	2,760 0.93
1,591,529	-1,660,826	2,366 0.94
1,660,827	=1,734,876	1,972 0.95
1,734,877	-1,814,187	1,577 0.96
1,814,188	-1,899,343	1,183 0.97
1,899,344	-1,991,020	789 0.98
1,991,021	-2,089,999	394 0.99
2,090,000 & MORE	0	1.00))

"B" and "W" Values

Maximum Claim Value = \$195,200
Average Death Value = \$116,981

<u>Expected Losses</u>	B	W
4,228 & Under	36,830	0.00
4,229 - 8,521	36,462	0.01
8,522 - 12,878	36,093	0.02
12,879 - 17,300	35,725	0.03
17,301 - 21,790	35,357	0.04
21,791 - 26,350	34,989	0.05
26,351 - 30,980	34,620	0.06
30,981 - 35,683	34,252	0.07
35,684 - 40,462	33,884	0.08
40,463 - 45,316	33,515	0.09
45,317 - 50,249	33,147	0.10
50,250 - 55,264	32,779	0.11
55,265 - 60,361	32,410	0.12
60,362 - 65,543	32,042	0.13
65,544 - 70,813	31,674	0.14
70,814 - 76,173	31,306	0.15
76,174 - 81,625	30,937	0.16
81,626 - 87,173	30,569	0.17
87,174 - 92,818	30,201	0.18
92,819 - 98,564	29,832	0.19
98,565 - 104,412	29,464	0.20
104,413 - 110,368	29,096	0.21
110,369 - 116,433	28,727	0.22
116,434 - 122,610	28,359	0.23
122,611 - 128,904	27,991	0.24
128,905 - 135,318	27,623	0.25
135,319 - 141,855	27,254	0.26
141,856 - 148,519	26,886	0.27
148,520 - 155,315	26,518	0.28
155,316 - 162,246	26,149	0.29
162,247 - 169,316	25,781	0.30
169,317 - 176,531	25,413	0.31
176,532 - 183,894	25,044	0.32
183,895 - 191,411	24,676	0.33
191,412 - 199,086	24,308	0.34
199,087 - 206,927	23,940	0.35
206,928 - 214,936	23,571	0.36
214,937 - 223,122	23,203	0.37
223,123 - 231,490	22,835	0.38
231,491 - 240,045	22,466	0.39
240,046 - 248,795	22,098	0.40
248,796 - 257,749	21,730	0.41

<u>Expected Losses</u>	B	W
257,750 - 266,910	21,361	0.42
266,911 - 276,289	20,993	0.43
276,290 - 285,894	20,625	0.44
285,895 - 295,732	20,256	0.45
295,733 - 305,812	19,888	0.46
305,813 - 316,145	19,520	0.47
316,146 - 326,741	19,152	0.48
326,742 - 337,609	18,783	0.49
337,610 - 348,761	18,415	0.50
348,762 - 360,209	18,047	0.51
360,210 - 371,963	17,678	0.52
371,964 - 384,039	17,310	0.53
384,040 - 396,450	16,942	0.54
396,451 - 409,209	16,573	0.55
409,210 - 422,333	16,205	0.56
422,334 - 435,837	15,837	0.57
435,838 - 449,740	15,469	0.58
449,741 - 464,059	15,100	0.59
464,060 - 478,814	14,732	0.60
478,815 - 494,027	14,364	0.61
494,028 - 509,717	13,995	0.62
509,718 - 525,910	13,627	0.63
525,911 - 542,631	13,259	0.64
542,632 - 559,905	12,890	0.65
559,906 - 577,763	12,522	0.66
577,764 - 596,234	12,154	0.67
596,235 - 615,353	11,786	0.68
615,354 - 635,152	11,417	0.69
635,153 - 655,671	11,049	0.70
655,672 - 676,952	10,681	0.71
676,953 - 699,036	10,312	0.72
699,037 - 721,972	9,944	0.73
721,973 - 745,811	9,576	0.74
745,812 - 770,607	9,207	0.75
770,608 - 796,421	8,839	0.76
796,422 - 823,318	8,471	0.77
823,319 - 851,369	8,103	0.78
851,370 - 880,650	7,734	0.79
880,651 - 911,244	7,366	0.80
911,245 - 943,246	6,998	0.81
943,247 - 976,753	6,629	0.82
976,754 - 1,011,877	6,261	0.83
1,011,878 - 1,048,739	5,893	0.84
1,048,740 - 1,087,472	5,524	0.85
1,087,473 - 1,128,224	5,156	0.86
1,128,225 - 1,171,159	4,788	0.87
1,171,160 - 1,216,459	4,420	0.88
1,216,460 - 1,264,327	4,051	0.89
1,264,328 - 1,314,988	3,683	0.90
1,314,989 - 1,368,698	3,315	0.91
1,368,699 - 1,425,742	2,946	0.92
1,425,743 - 1,486,441	2,578	0.93
1,486,442 - 1,551,164	2,210	0.94
1,551,165 - 1,620,324	1,841	0.95
1,620,325 - 1,694,398	1,473	0.96
1,694,399 - 1,773,931	1,105	0.97
1,773,932 - 1,859,556	737	0.98
1,859,557 - 1,951,999	368	0.99
1,952,000 & OVER	0	1.00

AMENDATORY SECTION (Amending Order 89-07,
filed 7/20/89, effective 8/20/89)

WAC 296-17-885 TABLE III.

((Expected Loss Rates and D-Ratios
Expected Loss Rates in Dollars Per Worker Hour
for Indicated Fiscal Year

CLASS	1985	1986	1987	D-RATIO
0101	1.0201	.9484	.8175	.411
0102	1.0280	.9583	.8280	.449
0103	1.3328	1.2376	1.0652	.381
0104	1.0174	.9385	.8035	.314
0105	1.1115	1.0351	.8929	.416
0106	1.8162	1.6879	1.4540	.399
0107	.8341	.7771	.6712	.440
0108	.8902	.8272	.7127	.406
0109	2.1966	2.0325	1.7444	.342
0201	1.6840	1.5595	1.3398	.361
0202	2.6587	2.4653	2.1182	.338
0206	1.5649	1.4480	1.2427	.339
0301	.5478	.5131	.4450	.511
0302	1.6473	1.5286	1.3160	.396
0306	.7815	.7282	.6288	.436
0307	.6873	.6406	.5533	.440
0401	2.8637	2.6679	2.3040	.439
0402	1.4820	1.3806	1.1916	.426
0403	1.1425	1.0583	.9092	.355
0502	1.0510	.9776	.8429	.412
0503	1.4127	1.3161	1.1359	.426
0504	1.0523	.9828	.8506	.473
0505	1.3240	1.2327	1.0638	.431
0506	2.6557	2.4777	2.1415	.451
0507	2.8637	2.6679	2.3040	.439
0508	2.6750	2.4774	2.1272	.342
0509	2.0372	1.8832	1.6146	.320
0510	1.1615	1.0835	.9367	.456
0511	1.0696	.9933	.8554	.394
0512	1.3484	1.2570	1.0859	.446
0513	.6796	.6337	.5478	.454
0514	1.1615	1.0835	.9367	.456
0515	1.7602	1.6363	1.4106	.413
0516	1.3240	1.2327	1.0638	.431
0601	.4882	.4552	.3933	.445
0602	.3655	.3405	.2941	.441
0603	.6843	.6352	.5470	.396
0604	1.7363	1.6147	1.3907	.376
0606	.2255	.2105	.1820	.458
0607	.2602	.2431	.2103	.468
0608	.2609	.2438	.2111	.479
0701	1.2606	1.1674	1.0031	.367
0803	.3608	.3360	.2898	.417
0804	.5685	.5282	.4551	.400
0901	1.8533	1.7128	1.4693	.346
1002	1.0182	.9514	.8238	.480
1003	.5495	.5118	.4420	.435
1004	.5495	.5118	.4420	.435
1005	3.4288	3.2005	2.7695	.469
1007	.1801	.1685	.1459	.488
1101	.5366	.5012	.4334	.463
1102	1.1561	1.0749	.9267	.413
1103	.4109	.3847	.3336	.505

CLASS	1985	1986	1987	D-RATIO
1104	.5049	.4726	.4097	.503
1106	.1905	.1787	.1551	.541
1108	.4240	.3961	.3428	.472
1109	.8021	.7479	.6462	.449
1301	.2238	.2087	.1804	.448
1303	.1797	.1676	.1448	.452
1304	.0162	.0152	.0131	.501
1305	.3221	.3017	.2616	.511
1401	1.3165	1.2297	1.0625	.443
1404	.5772	.5375	.4638	.422
1405	.4955	.4625	.4000	.464
1501	.3235	.3019	.2611	.462
1507	.2350	.2193	.1896	.458
1701	1.5921	1.4727	1.2643	.357
1702	1.5921	1.4727	1.2643	.357
1703	.4277	.3982	.3439	.436
1704	.7917	.7362	.6347	.410
1801	.9102	.8467	.7299	.408
1802	.3920	.3654	.3154	.437
2002	.5345	.4989	.4313	.458
2003	.3658	.3423	.2965	.493
2004	.6522	.6083	.5259	.456
2005	.3011	.2817	.2439	.489
2007	.3286	.3063	.2645	.434
2008	.2502	.2330	.2013	.435
2101	.5840	.5450	.4709	.446
2102	.3658	.3423	.2965	.493
2104	.3026	.2835	.2461	.524
2105	.4697	.4371	.3770	.422
2106	.3693	.3447	.2979	.452
2201	.2466	.2303	.1994	.476
2202	.4462	.4167	.3604	.462
2203	.2780	.2603	.2258	.509
2401	.4715	.4402	.3809	.468
2903	.5904	.5534	.4804	.524
2904	.6626	.6201	.5370	.493
2905	.4448	.4163	.3608	.501
2906	.5002	.4676	.4052	.490
2907	.4396	.4115	.3570	.508
2908	.8817	.8232	.7122	.468
2909	.5694	.5321	.4606	.479
3101	.5530	.5138	.4427	.399
3102	.3754	.3502	.3028	.456
3103	.3754	.3502	.3028	.456
3104	.4944	.4611	.3982	.435
3105	.7084	.6611	.5715	.455
3301	.7336	.6867	.5958	.507
3302	.6764	.6314	.5463	.468
3303	.2520	.2348	.2027	.426
3309	.4233	.3942	.3398	.403
3401	.3536	.3306	.2863	.482
3402	.3254	.3048	.2643	.509
3403	.1294	.1210	.1047	.476
3404	.3454	.3236	.2807	.516
3405	.2391	.2230	.1927	.445
3406	.1842	.1723	.1491	.487
3407	.2677	.2495	.2156	.442
3408	.1014	.0946	.0817	.441
3409	.1568	.1464	.1265	.450
3501	.6539	.6094	.5261	.432

CLASS	1985	1986	1987	D-RATIO
3503	.2670	.2503	.2172	.524
3506	.6009	.5591	.4823	.421
3508	.4341	.4067	.3529	.517
3602	.0747	.0699	.0607	.513
3603	.5649	.5286	.4582	.499
3604	1.0841	1.0072	.8674	.390
3605	.3747	.3501	.3029	.472
3606	.7142	.6679	.5782	.482
3701	.2602	.2425	.2095	.441
3702	.3853	.3586	.3095	.424
3707	.3359	.3145	.2728	.506
3708	.2532	.2368	.2050	.483
3801	.2029	.1894	.1638	.461
3802	.1323	.1243	.1081	.556
3808	.2217	.2078	.1803	.519
3901	.1549	.1447	.1252	.473
3902	.5165	.4819	.4167	.460
3903	1.0118	.9442	.8159	.448
3905	.1305	.1226	.1066	.560
3906	.3725	.3474	.3004	.456
3909	.2443	.2289	.1984	.514
4002	.5876	.5481	.4738	.451
4101	.1645	.1540	.1333	.488
4103	.2712	.2539	.2202	.504
4107	.0880	.0823	.0712	.483
4108	.1645	.1540	.1333	.488
4109	.1645	.1540	.1333	.488
4201	.3008	.2804	.2423	.446
4301	.7740	.7238	.6270	.490
4302	.6395	.5969	.5161	.460
4303	.5919	.5601	.4899	.701
4304	.5371	.5021	.4345	.478
4305	1.1811	1.0996	.9487	.422
4401	.3915	.3666	.3180	.508
4402	.6269	.5855	.5067	.472
4404	.5034	.4713	.4086	.504
4501	.1303	.1211	.1043	.396
4502	.0328	.0305	.0263	.412
4504	.0741	.0695	.0602	.512
4601	.5742	.5340	.4597	.371
4802	.2901	.2715	.2355	.502
4803	.3280	.3068	.2660	.499
4804	.5422	.5076	.4399	.502
4805	.3315	.3097	.2679	.469
4806	.0820	.0768	.0665	.495
4808	.4261	.3970	.3427	.430
4809	.2191	.2052	.1779	.513
4810	.1418	.1325	.1147	.479
4811	.2840	.2651	.2291	.459
4812	.3347	.3129	.2710	.487
4901	.0456	.0426	.0368	.470
4902	.0329	.0307	.0265	.474
4903	.0456	.0426	.0368	.470
4904	.0162	.0152	.0131	.501
4905	.2826	.2652	.2302	.534
4906	.0474	.0444	.0385	.502
4907	.0869	.0811	.0702	.458
4908	.1146	.1071	.0926	.460
4909	.1146	.1071	.0926	.460
5001	3.6616	3.3998	2.9266	.386

CLASS	1985	1986	1987	D-RATIO
5002	.4536	.4249	.3685	.512
5003	1.3866	1.2862	1.1061	.366
5004	1.7928	1.6757	1.4512	.484
5101	.6228	.5807	.5017	.447
5102	1.1768	1.0935	.9422	.403
5103	.7893	.7370	.6374	.464
5106	.6091	.5676	.4900	.429
5108	.6317	.5899	.5103	.467
5109	.5085	.4718	.4058	.372
5201	.2982	.2779	.2401	.438
5204	1.3266	1.2415	1.0771	.505
5206	.3391	.3150	.2714	.401
5207	.1626	.1524	.1322	.533
5208	.8947	.8356	.7231	.473
5209	.5480	.5113	.4418	.450
5301	.0222	.0207	.0179	.451
5305	.0261	.0243	.0210	.438
5306	.0285	.0266	.0230	.453
5307	.2928	.2736	.2368	.476
6103	.0406	.0381	.0329	.503
6104	.2734	.2553	.2207	.460
6105	.2429	.2280	.1980	.542
6107	.1056	.0987	.0852	.455
6108	.4884	.4587	.3988	.554
6109	.0337	.0316	.0274	.508
6201	.1359	.1269	.1098	.463
6202	.5600	.5217	.4504	.428
6203	.0886	.0827	.0715	.451
6204	.1500	.1404	.1217	.505
6205	.1500	.1404	.1217	.505
6206	.1500	.1404	.1217	.505
6207	.8973	.8405	.7287	.512
6208	.2051	.1915	.1655	.457
6209	.2371	.2217	.1919	.478
6301	.1072	.1000	.0863	.436
6302	.1462	.1362	.1175	.423
6303	.0478	.0448	.0387	.474
6304	.1164	.1088	.0940	.468
6305	.0485	.0454	.0394	.487
6306	.2315	.2163	.1872	.471
6308	.0349	.0324	.0279	.407
6309	.0990	.0928	.0805	.516
6402	.2196	.2052	.1776	.475
6403	.1414	.1327	.1154	.551
6404	.1109	.1040	.0903	.540
6405	.5529	.5153	.4450	.440
6406	.0690	.0646	.0560	.498
6407	.1543	.1447	.1256	.529
6408	.3134	.2913	.2509	.382
6409	.3695	.3453	.2989	.477
6501	.0529	.0497	.0431	.537
6502	.0181	.0169	.0147	.493
6503	.0938	.0868	.0743	.311
6504	.2989	.2809	.2440	.568
6505	.1728	.1618	.1402	.505
6506	.0575	.0538	.0465	.478
6508	.3696	.3462	.3001	.510
6509	.2410	.2255	.1952	.485
6601	.1728	.1617	.1400	.489
6602	.4206	.3945	.3427	.538

CLASS	1985	1986	1987	D-RATIO
6603	.2398	.2241	.1941	.481
6604	.0627	.0585	.0506	.457
6605	.1858	.1740	.1508	.506
6607	.1626	.1524	.1322	.533
6608	.2229	.2079	.1796	.448
6609	3.1883	2.9856	2.5873	.505
6610	3.1883	2.9856	2.5873	.505
6611	3.1883	2.9856	2.5873	.505
6612	3.1883	2.9856	2.5873	.505
6613	3.1883	2.9856	2.5873	.505
6614	3.1883	2.9856	2.5873	.505
6615	3.1883	2.9856	2.5873	.505
6616	3.1883	2.9856	2.5873	.505
6617	3.1883	2.9856	2.5873	.505
6704	.1754	.1639	.1418	.469
6705	.6633	.6218	.5396	.527
6706	.3241	.3028	.2619	.467
6707	12.6231*	11.8673*	10.3188*	.578
6708	3.6961	3.4590	2.9950	.491
6709	.1419	.1332	.1156	.547
6801	.4628	.4304	.3711	.415
6802	.3266	.3048	.2634	.450
6803	1.6612	1.5225	1.2963	.256
6804	.2136	.1982	.1706	.372
6809	2.3196	2.1749	1.8859	.529
6901	.0392	.0366	.0317	.701
6902	.4879	.4531	.3903	.401
6903	4.9785	4.5990	3.9400	.302
6904	.1582	.1475	.1274	.443
6905	.2438	.2266	.1951	.386
6906	.1024	.0960	.0830	.701
6907	1.1711	1.0924	.9446	.459
6908	.2658	.2483	.2148	.469
6909	.0581	.0542	.0469	.462
7101	.0268	.0250	.0216	.434
7102	24.2906*	22.7579*	19.7084*	.509
7103	.1809	.1684	.1453	.418
7104	.0406	.0378	.0327	.440
7105	.2862	.2682	.2328	.524
7106	.5751	.5366	.4641	.462
7107	1.3032	1.2182	1.0543	.476
7108	2.2113	2.0656	1.7883	.477
7109	5.5532	5.1815	4.4795	.456
7110	.2862	.2682	.2328	.524
7111	.2862	.2682	.2328	.524
7112	.5751	.5366	.4641	.462
7113	.5751	.5366	.4641	.462
7114	.5751	.5366	.4641	.462
7715	.5751	.5366	.4641	.462
7116	.5751	.5366	.4641	.462
7117	1.3032	1.2182	1.0543	.476
7118	2.2113	2.0656	1.7883	.477
7119	2.2113	2.0656	1.7883	.477
7120	5.5532	5.1815	4.4795	.456
7121	5.5532	5.1815	4.4795	.456
7201	.5216	.4877	.4223	.485
7202	.0341	.0317	.0273	.401
7203	.1031	.0962	.0831	.449
7301	.5622	.5255	.4551	.483
7302	.6392	.5979	.5173	.480

CLASS	1985	1986	1987	D-RATIO
7307	.8776	.8242	.7160	.557
7308	.2218	.2072	.1793	.466
7309	.1419	.1332	.1156	.547))

Expected Loss Rates and D-Ratios
Expected Loss Rates in Dollars Per Worker Hour
for Indicated Fiscal Year

CLASS	1986	1987	1988	D-RATIO
0101	1.0704	.9817	.8683	.409
0102	1.0477	.9644	.8513	.468
0103	1.3726	1.2600	1.1188	.406
0104	1.1143	1.0164	.9001	.330
0105	0.9767	0.8972	.7955	.422
0106	2.0719	1.9065	1.6985	.432
0107	.9024	.8287	.7329	.429
0108	.8723	.7999	.7056	.418
0109	2.3494	2.1497	1.9037	.372
0201	1.6872	1.5406	1.3643	.345
0202	2.5949	2.3783	2.1253	.339
0206	1.3955	1.2760	1.1291	.367
0301	.5383	.4966	.4391	.500
0302	1.5129	1.3900	1.2240	.449
0306	.7058	.6491	.5741	.452
0307	.6944	.6390	.5658	.456
0401	1.2094	1.1102	.9822	.445
0402	0.4824	0.4457	0.3955	.406
0403	0.9808	0.9001	.7985	.406
0502	0.9117	.8373	.7387	.437
0503	0.2960	0.2732	0.2422	.450
0504	1.2094	1.1102	.9822	.423
0505	1.2292	1.1288	0.9971	.436
0506	3.0066	2.7636	2.4494	.436
0507	2.7268	2.5097	2.2163	.468
0508	2.9591	2.7054	2.4016	.348
0509	1.8578	1.7004	1.5088	.366
0510	1.1320	1.0416	.9207	.460
0511	1.0032	.9227	.8164	.454
0512	1.3228	1.2172	1.0754	.463
0513	.7048	.6482	.5733	.453
0514	1.1633	1.0683	.9468	.428
0515	1.8952	1.7394	1.5359	.426
0516	1.4878	1.3680	1.2082	.451
0517	1.3810	1.2671	1.1217	.413
0518	1.1378	1.0455	0.9227	.444
0519	1.4509	1.3342	1.1788	.452
0601	.4375	.4028	.3570	.461
0602	.3640	.3351	.2969	.459
0603	.6461	.5939	.5246	.446
0604	1.6417	1.5046	1.3440	.341
0606	.2167	.1999	.1771	.490
0607	.2403	.2214	.1960	.485
0608	.2438	.2249	.1990	.499
0701	1.3727	1.2559	1.1090	.385
0803	.3159	.2905	.2575	.443
0804	.5846	.5367	.4754	.421
0901	1.8248	1.6645	1.4738	.333
1002	0.8656	.7992	.7058	.516
1003	.5366	.4940	.4370	.466
1004	.5366	.4940	.4370	.466

CLASS	1986	1987	1988	D-RATIO
1005	3.2974	3.0351	2.6728	.475
1007	.2012	.1855	.1643	.478
1101	.5224	.4825	.4281	.518
1102	1.0482	0.9621	.8505	.425
1103	.3985	.3675	.3250	.493
1104	.4725	.4353	.3859	.472
1106	.1890	.1747	.1553	.538
1108	.4150	.3828	.3392	.491
1109	.7282	.6712	.5938	.485
1301	.2022	.1859	.1649	.440
1303	.1702	.1563	.1384	.441
1304	.0164	.0152	.0135	.512
1305	.2814	.2598	.2300	.510
1401	1.1698	1.0792	0.9670	.461
1404	.5294	.4879	.4315	.484
1405	.4731	.4359	.3855	.479
1501	.3326	.3063	.2712	.470
1507	.2184	.2013	.1785	.478
1701	1.5226	1.3903	1.2292	.353
1702	1.5226	1.3903	1.2292	.353
1703	.4016	.3686	.3258	.420
1704	.8110	.7437	.6589	.401
1801	.9320	.8561	.7588	.424
1802	.4605	.4237	.3758	.452
2002	.5330	.4904	.4353	.450
2003	.3475	.3207	.2843	.504
2004	.6197	.5707	.5043	.475
2005	.3139	.2894	.2570	.481
2007	.3098	.2853	.2535	.464
2008	.2351	.2161	.1915	.436
2101	.5361	.4940	.4384	.472
2102	.3475	.3207	.2843	.504
2104	.2930	.2709	.2395	.542
2105	.3922	.3610	.3197	.457
2106	.3792	.3491	.3100	.452
2201	.2066	.1907	.1689	.511
2202	.4204	.3876	.3443	.481
2203	.2737	.2526	.2231	.506
2401	.4624	.4258	.3767	.473
2903	.5862	.5420	.4789	.540
2904	.7069	.6519	.5813	.475
2905	.4531	.4182	.3703	.513
2906	.4823	.4441	.3926	.475
2907	.4262	.3931	.3475	.500
2908	.7897	.7269	.6431	.462
2909	.5450	.5017	.4442	.464
3101	.5293	.4851	.4297	.393
3102	.3745	.3441	.3049	.433
3103	.3745	.3441	.3049	.433
3104	.4947	.4558	.4064	.457
3105	.8299	.7629	.6736	.451
3301	.6583	.6087	.5365	.543
3302	.6583	.6087	.5365	.543
3303	.2224	.2047	.1818	.446
3304	.6583	.6087	.5365	.543
3309	.3122	.2873	.2552	.445
3401	.3344	.3081	.2733	.476
3402	.3215	.2971	.2628	.527
3403	.1206	.1111	.0986	.485
3404	.3612	.3337	.2954	.518

CLASS	1986	1987	1988	D-RATIO
3405	.2059	.1898	.1681	.489
3406	.1654	.1528	.1360	.504
3407	.2596	.2386	.2116	.437
3408	.0907	.0836	.0741	.456
3409	.1469	.1354	.1204	.464
3501	.6602	.6067	.5383	.428
3503	.2111	.1948	.1724	.514
3506	.6333	.5813	.5145	.416
3508	.4937	.4563	.4037	.537
3509	.3154	.2925	.2582	.600
3602	.0764	.0707	.0627	.538
3603	.5101	.4706	.4168	.498
3604	1.0656	0.9779	.8672	.408
3605	.3799	.3502	.3100	.485
3606	.6866	.6319	.5614	.447
3701	.2372	.2187	.1939	.483
3702	.3849	.3532	.3132	.410
3707	.3418	.3155	.2784	.511
3708	.2435	.2246	.1986	.501
3801	.1905	.1756	.1554	.486
3802	.1564	.1446	.1290	.536
3808	.2332	.2155	.1906	.524
3901	.1380	.1272	.1129	.483
3902	.4583	.4227	.3742	.495
3903	0.9887	.9101	.8093	.450
3905	.1265	.1172	.1042	.562
3906	.3408	.3139	.2781	.472
3909	.2599	.2397	.2129	.487
4002	.6021	.5543	.4907	.463
4101	.1901	.1754	.1562	.484
4103	.2355	.2173	.1925	.509
4107	.0953	.0878	.0780	.485
4108	.1901	.1754	.1562	.484
4109	.1901	.1754	.1562	.484
4201	.2452	.2257	.1997	.463
4301	.7605	.7009	.6189	.488
4302	.6187	.5693	.5035	.464
4303	.2372	.2187	.1939	.483
4304	.5227	.4824	.4277	.507
4305	0.9921	0.9120	.8085	.438
4401	.4059	.3751	.3312	.533
4402	.6336	.5840	.5169	.481
4404	.5392	.4978	.4396	.514
4501	.1268	.1164	.1032	.420
4502	.0322	.0297	.0263	.411
4504	.0725	.0671	.0596	.526
4601	.5632	.5176	.4619	.396
4802	.2812	.2593	.2294	.496
4803	.3236	.2989	.2639	.525
4804	.5123	.4728	.4194	.504
4805	.3321	.3061	.2711	.485
4806	.0837	.0771	.0682	.495
4808	.3892	.3582	.3173	.460
4809	.2125	.1963	.1742	.525
4810	.1448	.1337	.1184	.500
4811	.2658	.2446	.2166	.455
4812	.3799	.3504	.3098	.502
4901	.0414	.0382	.0338	.494
4902	.0324	.0298	.0264	.482
4903	.0414	.0382	.0338	.494

CLASS	1986	1987	1988	D-RATIO
4904	.0164	.0152	.0135	.512
4905	.2852	.2639	.2340	.550
4906	.0459	.0423	.0376	.479
4907	.0771	.0711	.0630	.462
4908	.1095	.1010	.0904	.464
4909	.1095	.1010	.0904	.464
4910	.2960	.2732	.2422	.499
5001	3.5218	3.2287	2.8550	.406
5002	.4629	.4275	.3774	.521
5003	1.1451	1.0501	0.9292	.406
5004	2.2503	2.0665	1.8243	.436
5101	.5740	.5282	.4672	.459
5102	0.6781	0.6246	.5526	.472
5103	.6781	.6246	.5526	.472
5106	.5535	.5091	.4527	.432
5108	.6276	.5780	.5118	.471
5109	.4273	.3915	.3470	.385
5201	.2741	.2523	.2238	.462
5204	1.1802	1.0877	0.9553	.498
5206	.2850	.2615	.2312	.419
5207	.1515	.1402	.1243	.539
5208	.8187	.7533	.6661	.460
5209	.5020	.4623	.4093	.468
5301	.0209	.0193	.0171	.490
5305	.0262	.0241	.0214	.426
5306	.0299	.0276	.0244	.448
5307	.2928	.2702	.2389	.507
6103	.0362	.0334	.0297	.534
6104	.2820	.2599	.2305	.482
6105	.1388	.1280	.1133	.485
6107	.0928	.0856	.0760	.482
6108	.4737	.4385	.3880	.565
6109	.0322	.0298	.0264	.540
6110	.2619	.2425	.2146	.569
6201	.1258	.1159	.1030	.476
6202	.5459	.5010	.4449	.404
6203	.0780	.0719	.0638	.457
6204	.1349	.1246	.1106	.521
6205	.1349	.1246	.1106	.521
6206	.1349	.1246	.1106	.521
6207	.8171	.7539	.6702	.495
6208	.2100	.1936	.1717	.482
6209	.2029	.1872	.1666	.492
6301	.1011	.0930	.0825	.435
6302	.1418	.1302	.1156	.412
6303	.0532	.0491	.0436	.460
6304	.1126	.1038	.0923	.478
6305	.0512	.0473	.0421	.509
6306	.2294	.2112	.1879	.454
6308	.0335	.0308	.0273	.446
6309	.1043	.0964	.0857	.531
6402	.2092	.1928	.1706	.489
6403	.1496	.1384	.1227	.543
6404	.1222	.1129	.1001	.539
6405	.4910	.4524	.4004	.476
6406	.0676	.0625	.0555	.514
6407	.1491	.1377	.1223	.512
6408	.3069	.2820	.2511	.407
6409	.3871	.3564	.3176	.444
6501	.0601	.0557	.0493	.550

CLASS	1986	1987	1988	D-RATIO
6502	.0163	.0151	.0134	.480
6503	.0828	.0755	.0673	.317
6504	.3064	.2837	.2526	.563
6505	.1597	.1475	.1310	.516
6506	.0633	.0584	.0519	.499
6508	.3623	.3342	.2962	.498
6509	.1846	.1703	.1511	.491
6601	.1626	.1500	.1334	.493
6602	.4824	.4457	.3955	.518
6603	.2236	.2062	.1829	.487
6604	.0575	.0528	.0468	.455
6605	.1931	.1782	.1577	.510
6607	.1515	.1402	.1243	.539
6608	.2019	.1857	.1640	.453
6704	.1682	.1551	.1379	.482
6705	.6760	.6250	.5547	.535
6706	.3265	.3011	.2677	.480
6707	1.5956*	1.4781*	1.3124*	.576
6708	4.3646	4.0262	3.6128	.451
6709	.1379	.1277	.1136	.554
6801	.3725	.3412	.3024	.386
6802	.3128	.2881	.2557	.464
6803	1.3764	1.2480	1.1036	.272
6804	.1978	.1816	.1611	.401
6809	2.2170	2.0490	1.8297	.520
6901	.0337	.0311	.0285	.682
6902	.4291	.3939	.3484	.428
6903	5.2349	4.7702	4.2438	.287
6904	.1602	.1474	.1308	.446
6905	.2031	.1862	.1655	.386
6906	.0835	.0772	.0705	.682
6907	1.2509	1.1500	1.0158	.450
6908	.3141	.2898	.2562	.504
6909	.0541	.0499	.0443	.470
7101	.0235	.0216	.0192	.431
7102	2.9918*	2.7652*	2.4818*	.508
7103	.1717	.1581	.1399	.457
7104	.0395	.0364	.0321	.466
7105	.2809	.2594	.2293	.519
7106	.5610	.5161	.4556	.500
7107	1.2771	1.1776	1.0481	.498
7108	2.1598	1.9890	1.7559	.481
7109	5.4194	4.9873	4.4167	.457
7110	.2809	.2594	.2293	.521
7111	.2809	.2594	.2293	.521
7112	.5609	.5161	.4556	.463
7113	.5609	.5161	.4556	.463
7114	.5609	.5161	.4556	.463
7115	.5609	.5161	.4556	.463
7116	.5609	.5161	.4556	.463
7117	1.2771	1.1776	1.0481	.476
7118	2.1598	1.9890	1.7559	.477
7119	2.1598	1.9890	1.7559	.477
7120	5.4194	4.9873	4.4167	.457
7121	5.4194	4.9873	4.4167	.457
7201	.5870	.5415	.4766	.513
7202	.0296	.0272	.0241	.446
7203	.1084	.0999	.0888	.457
7204	.0000	.0000	.0000	.682
7301	.5554	.5123	.4536	.496

CLASS	1986	1987	1988	D-RATIO
7302	.6295	.5812	.5172	.500
7307	1.1401	1.0555	.9371	.563
7308	.2154	.1985	.1762	.477
7309	.1379	.1277	.1136	.554

*Daily expected loss rate

AMENDATORY SECTION (Amending Order 88-30, filed 12/1/88, effective 1/1/89)

WAC 296-17-890 TABLE IV.

Maximum experience modifications for firms with no compensable accidents:

Expected Loss Range	Maximum Experience Modification
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((1-1,978	0.90
1,979-2,116	0.89
2,117-2,266	0.88
2,267-2,428	0.87
2,429-2,604	0.86
2,605-2,795	0.85
2,796-3,002	0.84
3,003-3,227	0.83
3,228-3,473	0.82
3,474-3,740	0.81
3,741-4,032	0.80
4,033-4,351	0.79
4,352-4,699	0.78
4,700-5,080	0.77
5,081-5,499	0.76
5,500-5,957	0.75
5,958-6,461	0.74
6,462-7,016	0.73
7,017-7,626	0.72
7,627-8,300	0.71
8,301-9,044	0.70
9,045-9,867	0.69
9,868-10,779	0.68
10,780-11,791	0.67
11,792-12,915	0.66
12,916 & Over	0.65))
1,848 & Under	0.90
1,849-	1,977
1,978-	2,116
2,117-	2,268
2,269-	2,432
2,433-	2,610
2,611-	2,804
2,805-	3,014
3,015-	3,243
3,244-	3,493
3,494-	3,766
3,767-	4,063
4,064-	4,389
4,390-	4,745
4,746-	5,135
5,136-	5,564

Expected Loss Range	Maximum Experience Modification
5,565-	6,035
6,036-	6,552
6,553-	7,123
7,124-	7,752
7,753-	8,447
8,448-	9,216
9,217-	10,067
10,068-	11,012
11,013-	12,062
12,063-	13,230
13,231-	14,533
14,534-	15,988
15,989-	17,615
17,616-	19,439
19,440 & Over	0.60

AMENDATORY SECTION (Amending Order 89-07, filed 7/20/89, effective 8/20/89)

WAC 296-17-895 INDUSTRIAL INSURANCE ACCIDENT FUND BASE RATES AND MEDICAL AID BASE RATES BY CLASS OF INDUSTRY. Industrial insurance accident fund and medical aid fund base rates by class of industry shall be as set forth below.

((Base Rates Effective
January 1, 1989

Class	Accident Fund	Medical Aid Fund
0101	0.9125	0.5277
0102	0.9270	0.5371
0103	1.0931	0.7846
0104	0.9706	0.4254
0105	0.8293	0.7555
0106	1.5560	1.0073
0107	0.7448	0.4414
0108	0.8162	0.4374
0109	1.9588	1.0924
0201	1.5564	0.7874
0202	1.9333	1.8051
0206	1.3705	0.8044
0301	0.4588	0.3352
0302	1.5943	0.7119
0306	0.6617	0.4513
0307	0.5636	0.4173
0401	2.5428	1.5295
0402	1.1525	0.9614
0403	0.9859	0.6092
0502	0.8922	0.5962
0503	1.0919	0.9237
0504	0.9216	0.5878
0505	1.1976	0.6797
0506	2.0977	1.7081
0507	2.5428	1.5295

((Base Rates Effective
January 1, 1989)

Class	Accident Fund	Medical Aid Fund
0508	2.2195	1.5145
0509	1.7384	1.0857
0510	1.0175	0.6419
0511	0.9321	0.5740
0512	1.1642	0.7587
0513	0.6071	0.3625
0514	1.0175	0.6419
0515	1.6333	0.8484
0516	1.1976	0.6797
0601	0.3932	0.3048
0602	0.3301	0.1894
0603	0.6349	0.3256
0604	1.1492	1.3215
0606	0.1721	0.1518
0607	0.2040	0.1703
0608	0.2157	0.1597
0701	1.2004	0.5530
0803	0.2796	0.2342
0804	0.4958	0.3058
0901	1.8286	0.7286
1002	0.8661	0.5983
1003	0.4663	0.3159
1004	0.4663	0.3159
1005	3.2320	1.6677
1007	0.1380	0.1224
1101	0.3831	0.3905
1102	1.0390	0.5935
1103	0.3392	0.2558
1104	0.4054	0.3259
1106	0.1181	0.1612
1108	0.3310	0.2796
1109	0.6901	0.4548
1301	0.1793	0.1411
1303	0.1538	0.1029
1304	0.0112	0.0123
1305	0.2470	0.2209
1401	0.7148	1.1924
1404	0.4578	0.3641
1405	0.4228	0.2871
1501	0.2667	0.1971
1507	0.1832	0.1542
1701	1.5644	0.6396
1702	1.5644	0.6396
1703	0.3941	0.2126
1704	0.6857	0.4339
1801	0.7316	0.5595
1802	0.3182	0.2411
2002	0.4216	0.3455
2003	0.2831	0.2462
2004	0.5703	0.3615
2005	0.2256	0.2101
2007	0.2534	0.2161
2008	0.2096	0.1468
2101	0.4157	0.4235
2102	0.2831	0.2462

((Base Rates Effective
January 1, 1989)

Class	Accident Fund	Medical Aid Fund
2104	0.2480	0.1919
2105	0.4212	0.2437
2106	0.2827	0.2473
2201	0.2080	0.1464
2202	0.3174	0.3258
2203	0.2281	0.1748
2401	0.4024	0.2737
2903	0.4811	0.3776
2904	0.4593	0.5023
2905	0.3515	0.2927
2906	0.4266	0.2943
2907	0.3744	0.2619
2908	0.7655	0.4982
2909	0.4629	0.3570
3101	0.4731	0.3073
3102	0.3257	0.2108
3103	0.3257	0.2108
3104	0.3306	0.3800
3105	0.5698	0.4456
3301	0.6669	0.3928
3302	0.6012	0.3672
3303	0.1854	0.1749
3309	0.2933	0.3108
3401	0.2848	0.2250
3402	0.2564	0.2159
3403	0.0986	0.0880
3404	0.2687	0.2334
3405	0.1815	0.1612
3406	0.1201	0.1473
3407	0.2231	0.1589
3408	0.0791	0.0660
3409	0.1119	0.1136
3501	0.5187	0.4145
3503	0.2171	0.1713
3506	0.5355	0.3152
3508	0.3525	0.2781
3602	0.0556	0.0531
3603	0.4550	0.3623
3604	0.8901	0.6403
3605	0.2981	0.2411
3701	0.2144	0.1569
3702	0.3294	0.2176
3707	0.2853	0.2008
3708	0.1907	0.1751
3801	0.1634	0.1278
3802	0.1028	0.0912
3808	0.1796	0.1426
3901	0.1198	0.1033
3902	0.4303	0.3096
3903	0.7406	0.7127
3905	0.0987	0.1058
3906	0.3223	0.2101
3909	0.1816	0.1737
4002	0.4831	0.3576
4101	0.1186	0.1198

((Base Rates Effective
January 1, 1989)

Class	Accident Fund	Medical Aid Fund
4103	0.2195	0.1733
4107	0.0628	0.0645
4108	0.1186	0.1198
4109	0.1186	0.1198
4201	0.2566	0.1726
4301	0.6692	0.4460
4302	0.5392	0.3767
4304	0.4046	0.3707
4305	0.9809	0.6973
4401	0.3220	0.2454
4402	0.5148	0.3862
4404	0.4141	0.3147
4501	0.1074	0.0767
4502	0.0263	0.0202
4504	0.0467	0.0615
4601	0.3763	0.4404
4802	0.2360	0.1840
4803	0.2719	0.2022
4804	0.4120	0.3743
4805	0.2564	0.2208
4806	0.0674	0.0512
4808	0.3304	0.2778
4809	0.1583	0.1604
4810	0.1118	0.0925
4811	0.2369	0.1698
4812	0.2834	0.1988
4901	0.0355	0.0301
4902	0.0264	0.0209
4903	0.0355	0.0301
4904	0.0112	0.0123
4905	0.2094	0.2035
4906	0.0358	0.0331
4907	0.0675	0.0572
4908	0.0648	0.1015
4909	0.0648	0.1015
5001	3.1244	2.0286
5002	0.3796	0.2779
5003	1.1477	0.7985
5004	1.5543	1.0248
5101	0.5391	0.3493
5102	1.0408	0.6186
5103	0.6461	0.4868
5106	0.4609	0.4094
5108	0.5043	0.4035
5109	0.4325	0.2811
5201	0.2280	0.1986
5204	1.3424	0.5661
5206	0.3007	0.1772
5207	0.1080	0.1298
5208	0.7660	0.5182
5209	0.4395	0.3452
5301	0.0151	0.0168
5305	0.0194	0.0179
5306	0.0232	0.0177
5307	0.2430	0.1782

((Base Rates Effective
January 1, 1989)

Class	Accident Fund	Medical Aid Fund
6103	0.0235	0.0357
6104	0.2041	0.1892
6105	0.1827	0.1726
6107	0.0788	0.0730
6108	0.3862	0.3294
6109	0.0267	0.0222
6201	0.0990	0.0968
6202	0.4495	0.3487
6203	0.0683	0.0589
6204	0.1076	0.1103
6205	0.1076	0.1103
6206	0.1076	0.1103
6207	0.6421	0.6636
6208	0.1554	0.1394
6209	0.1590	0.1844
6301	0.0856	0.0676
6302	0.1178	0.0903
6303	0.0334	0.0357
6304	0.0873	0.0804
6305	0.0350	0.0353
6306	0.1649	0.1693
6308	0.0300	0.0193
6309	0.0700	0.0743
6402	0.1844	0.1313
6403	0.1030	0.1044
6404	0.0783	0.0840
6405	0.4661	0.3221
6406	0.0461	0.0542
6407	0.1077	0.1178
6408	0.2359	0.2078
6409	0.2759	0.2574
6501	0.0395	0.0379
6502	0.0128	0.0135
6503	0.0791	0.0508
6504	0.1871	0.2534
6505	0.1207	0.1305
6506	0.0413	0.0418
6508	0.2864	0.2502
6509	0.1476	0.2027
6601	0.1264	0.1238
6602	0.3366	0.2772
6603	0.1830	0.1632
6604	0.0528	0.0370
6605	0.1509	0.1183
6607	0.1080	0.1298
6608	0.1988	0.1189
6609	2.7739	3.2429
6610	1.1999	1.4027
6611	0.7428	0.8685
6612	0.3874	0.4529
6613	2.4884	2.4746
6614	91.7390**	107.2610**
6615	68.6890**	80.3110**
6616	8.7590**	10.2410**
6617	6.4540**	7.5460**

((Base Rates Effective
January 1, 1989)

Class	Accident Fund	Medical Aid Fund
6704	0.1232	0.130†
6705	0.4570	0.5119
6706	0.2261	0.2417
6707	8.22*	10.40*
6708	2.2429	3.1360
6709	0.0891	0.1193
6801	0.4124	0.2417
6802	0.2517	0.2166
6803	1.7596	0.4612
6804	0.1767	0.1235
6809	1.3296	2.0704
6901		0.0582
6902	0.4535	0.2321
6903	4.1064	2.7848
6904	0.1288	0.0972
6905	0.1922	0.1524
6906		0.1524
6907	1.0590	0.6129
6908	0.2185	0.1633
6909	0.0429	0.0407
7101	0.0226	0.0156
7102	10.86*	24.77*
7103	0.1527	0.1039
7104	0.0151	0.0168
7105	0.0338	0.0241
7106	0.1844	0.1313
7107	0.1844	0.1313
7108	0.1844	0.1313
7109	0.2359	0.1802
7110	0.2359	0.1802
7111	0.2359	0.1802
7112	0.5186	0.3033
7113	0.5186	0.3033
7114	0.5186	0.3033
7115	0.5186	0.3033
7116	0.5186	0.3033
7117	0.8915	0.9943
7118	1.9733	1.1996
7119	1.9733	1.1996
7120	4.6053	3.387†
7121	4.6053	3.387†
7201	0.4559	0.2946
7202	0.0286	0.0195
7203	0.0773	0.0706
7204		
7301	0.4838	0.3252
7302	0.3936	0.5346
7307	0.5793	0.7106
7308	0.1697	0.1496
7309	0.0891	0.1193))

Base Rates Effective
January 1, 1990

Class	Accident Fund	Medical Aid Fund
0101	1.2222	0.6207
0102	1.1529	0.6391
0103	1.3079	0.9728
0104	1.3381	0.5465
0105	0.8936	0.6653
0106	1.8695	1.5910
0107	1.0469	0.5469
0108	1.0913	0.4396
0109	2.7192	1.3186
0201	1.9953	0.8657
0202	2.2044	2.1940
0206	1.6933	0.7296
0301	0.5045	0.3799
0302	1.8706	0.7567
0306	0.7548	0.4520
0307	0.6983	0.4755
0403	0.9842	0.6665
0502	1.1202	0.4946
0504	1.2989	0.7388
0506	3.0344	2.0654
0507	2.7529	1.6845
0508	3.1977	1.8432
0509	2.0130	1.1533
0510	1.1487	0.7237
0511	1.0313	0.6550
0512	1.4676	0.8291
0513	0.6854	0.4539
0514	1.2017	0.7746
0515	2.2189	1.0423
0516	1.6437	0.8907
0517	1.5523	0.8465
0518	1.3461	0.6423
0519	1.6420	0.8924
0601	0.4442	0.3137
0602	0.3726	0.2609
0603	0.6717	0.3846
0604	1.2664	1.3686
0606	0.2002	0.1655
0607	0.2147	0.1698
0608	0.2342	0.1749
0701	1.7049	0.6622
0803	0.2848	0.2240
0804	0.5882	0.3742
0901	2.0753	0.8865
1002	0.8094	0.5984
1003	0.5306	0.3604
1004	0.5306	0.3604
1005	3.3817	1.7917

Base Rates Effective
January 1, 1990

Class	Accident Fund	Medical Aid Fund
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1007	0.1959	0.1474
1101	0.4344	0.4307
1102	1.1343	0.6137
1103	0.3711	0.2769
1104	0.4029	0.3524
1106	0.1346	0.1708
1108	0.3739	0.3141
1109	0.6326	0.5085
1301	0.2114	0.1467
1303	0.1782	0.1092
1304	0.0145	0.0140
1305	0.2501	0.2113
1401	0.6842	1.2560
1404	0.4608	0.3679
1405	0.4459	0.3241
1501	0.3059	0.2331
1507	0.1970	0.1672
1701	1.8744	0.7117
1702	1.8744	0.7117
1703	0.4290	0.2340
1704	0.8234	0.5071
1801	0.9655	0.6276
1802	0.4027	0.3356
2002	0.4557	0.4026
2003	0.3053	0.2736
2004	0.5936	0.4019
2005	0.2485	0.2555
2007	0.2506	0.2495
2008	0.2187	0.1577
2101	0.4421	0.4184
2102	0.3053	0.2736
2104	0.2206	0.2184
2105	0.3938	0.2723
2106	0.3166	0.2949
2201	0.1805	0.1578
2202	0.3371	0.3425
2203	0.2528	0.1839
2401	0.4367	0.3146
2903	0.5209	0.4355
2904	0.4963	0.6544
2905	0.3683	0.3413
2906	0.4900	0.3164
2907	0.3939	0.2957
2908	0.7648	0.5287
2909	0.4905	0.3789
3101	0.5539	0.3201
3102	0.3669	0.2495
3103	0.3669	0.2495
3104	0.3991	0.4489
3105	0.8326	0.4832
3303	0.1834	0.1699
3304	0.5999	0.4410
3309	0.2575	0.2408
3401	0.3063	0.2532
3402	0.2883	0.2417

Base Rates Effective
January 1, 1990

Class	Accident Fund	Medical Aid Fund
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3403	0.1080	0.0962
3404	0.3137	0.2770
3405	0.1876	0.1481
3406	0.1164	0.1532
3407	0.2554	0.1832
3408	0.0888	0.0676
3409	0.1154	0.1224
3501	0.5964	0.4696
3503	0.1683	0.1547
3506	0.6986	0.3926
3508	0.4346	0.3791
3509	0.2862	0.2381
3602	0.0594	0.0639
3603	0.4602	0.3822
3604	0.9838	0.7083
3605	0.3380	0.2729
3701	0.2121	0.1807
3702	0.3769	0.2550
3707	0.3250	0.2282
3708	0.2160	0.1737
3801	0.1783	0.1368
3802	0.1125	0.1494
3808	0.2045	0.1751
3901	0.1106	0.1083
3902	0.4003	0.3342
3903	0.7843	0.7985
3905	0.0882	0.1223
3906	0.3249	0.2451
3909	0.2004	0.2132
4002	0.5786	0.4115
4101	0.1382	0.1690
4103	0.2298	0.1807
4107	0.0862	0.0761
4108	0.1382	0.1690
4109	0.1382	0.1690
4201	0.2556	0.1667
4301	0.7354	0.4891
4302	0.5859	0.4048
4304	0.4350	0.4134
4305	1.0451	0.6882
4401	0.3784	0.2870
4402	0.5770	0.4500
4404	0.5039	0.3671
4501	0.1210	0.0877
4502	0.0312	0.0221
4504	0.0506	0.0664
4601	0.4303	0.4894
4802	0.2294	0.1985
4803	0.1907	0.2251
4804	0.4266	0.4071
4805	0.2771	0.2427
4806	0.0582	0.0581
4808	0.3406	0.2731
4809	0.1701	0.1777
4810	0.1044	0.1089

Base Rates Effective
January 1, 1990

Class	Accident Fund	Medical Aid Fund
4811	0.2027	0.1841
4812	0.3549	0.2651
4901	0.0409	0.0312
4902	0.0290	0.0249
4903	0.0409	0.0312
4904	0.0134	0.0140
4905	0.2132	0.2437
4906	0.0387	0.0373
4907	0.0664	0.0575
4908	0.0648	0.1138
4909	0.0648	0.1138
4910	0.2404	0.2291
5001	4.1269	1.9893
5002	0.4747	0.3181
5003	1.2407	0.6748
5004	2.1618	1.3200
5101	0.5408	0.3774
5103	0.6031	0.4655
5106	0.4607	0.4385
5108	0.6117	0.4403
5109	0.4191	0.2661
5201	0.2518	0.2040
5204	1.3680	0.5900
5206	0.3167	0.1679
5207	0.1128	0.1300
5208	0.8342	0.5292
5209	0.4570	0.3511
5301	0.0170	0.0181
5305	0.0226	0.0208
5306	0.0270	0.0224
5307	0.2887	0.2099
6103	0.0270	0.0336
6104	0.2352	0.2178
6105	0.1220	0.1014
6107	0.0794	0.0753
6108	0.4048	0.3793
6109	0.0265	0.0262
6110	0.2190	0.2094
6201	0.1071	0.1034
6202	0.4829	0.3862
6203	0.0646	0.0613
6204	0.1052	0.1133
6205	0.1052	0.1133
6206	0.1052	0.1133
6207	0.6270	0.7017
6208	0.1726	0.1629
6209	0.1496	0.1792
6301	0.1102	0.0717
6302	0.1234	0.1020
6303	0.0438	0.0443
6304	0.0814	0.0941
6305	0.0340	0.0447
6306	0.1733	0.1911
6308	0.0314	0.0223
6309	0.0750	0.0909

Base Rates Effective
January 1, 1990

Class	Accident Fund	Medical Aid Fund
6402	0.1763	0.1491
6403	0.1151	0.1269
6404	0.0894	0.1014
6405	0.4745	0.3454
6406	0.0523	0.0579
6407	0.1051	0.1255
6408	0.2551	0.2477
6409	0.3150	0.3364
6501	0.0492	0.0490
6502	0.0134	0.0137
6503	0.0863	0.0543
6504	0.1988	0.2993
6505	0.1237	0.1376
6506	0.0471	0.0551
6508	0.3163	0.2780
6509	0.1504	0.1477
6601	0.1238	0.1369
6602	0.3818	0.4025
6603	0.1959	0.1738
6604	0.0564	0.0394
6605	0.1945	0.1410
6607	0.1128	0.1300
6608	0.2158	0.1242
6614	127.2820	148.8180
6615	95.0120	111.0880
6616	12.4930	14.6070
6617	9.2660	10.8340
6618	68.7350	80.3650
6704	0.1288	0.1451
6705	0.4702	0.5796
6706	0.2826	0.2770
6707	9.69*	11.66*
6708	2.6540	3.6860
6709	0.0916	0.1311
6801	0.4098	0.2252
6802	0.2748	0.2381
6803	1.8750	0.4345
6804	0.1968	0.1352
6809	1.4431	2.2613
6901	—	0.0566
6902	0.4463	0.2594
6903	5.7307	3.0914
6904	0.1658	0.1170
6905	0.1962	0.1404
6906	—	0.1404
6907	1.2887	0.7471
6908	0.2810	0.2223
6909	0.0461	0.0441
7101	0.0248	0.0159
7102	13.34*	27.76*
7103	0.1688	0.1181
7104	0.0162	0.0188
7105	0.0379	0.0269
7106	0.1942	0.1470
7107	0.1942	0.1470

Class	Base Rates Effective January 1, 1990	
	Accident Fund	Medical Aid Fund
7108	0.1926	0.1470
7109	0.2520	0.2019
7110	0.2520	0.2019
7111	0.2611	0.2019
7112	0.5796	0.3398
7113	0.5544	0.3398
7114	0.5544	0.3398
7115	0.5544	0.3398
7116	0.5544	0.3398
7117	0.9528	1.1142
7118	2.1091	1.3442
7119	2.1091	1.3442
7120	4.9234	3.7491
7121	4.9234	3.7491
7201	0.6148	0.3426
7202	0.0267	0.0220
7203	0.0823	0.0909
7204	—	—
7301	0.4707	0.4096
7302	0.4842	0.5661
7307	0.7184	1.0230
7308	0.1702	0.1699
7309	0.0916	0.1311

*Daily rate. The daily rate shall be paid in full on any person for any calendar day in which any duties are performed that are incidental to the profession of the worker.

**These rates are calculated on a per license basis for parimutuel race tracks and are base rated.

AMENDATORY SECTION (Amending Order 88-26, filed 12/1/88, effective 1/1/89)

WAC 296-17-919 TABLE I.

((RETROSPECTIVE RATING PLANS A, A1, A2, A3, AND B STANDARD PREMIUM SIZE RANGES Effective January 1, 1989)

Size	Standard
Group	Premium
Number	Range
84	\$ 3,090 — \$ 3,564
83	3,565 — 4,092
82	4,093 — 4,677
81	4,678 — 5,326
80	5,327 — 6,042
79	6,043 — 6,833
78	6,834 — 7,702
77	7,703 — 8,657
76	8,658 — 9,705
75	9,706 — 10,853
74	10,854 — 12,108
73	12,109 — 13,479

Size	Standard
Group	Premium
Number	Range
72	13,480 — 14,973
71	14,974 — 16,601
70	16,602 — 18,372
69	18,373 — 20,296
68	20,297 — 20,855
67	20,856 — 22,027
66	22,028 — 23,284
65	23,285 — 24,634
64	24,635 — 26,085
63	26,086 — 27,647
62	27,648 — 29,330
61	29,331 — 31,145
60	31,146 — 33,106
59	33,107 — 35,227
58	35,228 — 37,524
57	37,525 — 40,015
56	40,016 — 42,720
55	42,721 — 45,662
54	45,663 — 48,867
53	48,868 — 52,364
52	52,365 — 56,187
51	56,188 — 60,371
50	60,372 — 64,960
49	64,961 — 70,003
48	70,004 — 75,555
47	75,556 — 81,679
46	81,680 — 88,450
45	88,451 — 95,952
44	95,953 — 101,375
43	101,376 — 108,043
42	108,044 — 115,324
41	115,325 — 123,292
40	123,293 — 132,030
39	132,031 — 141,636
38	141,637 — 152,223
37	152,224 — 163,920
36	163,921 — 176,879
35	176,880 — 191,278
34	191,279 — 207,326
33	207,327 — 225,269
32	225,270 — 245,402
31	245,403 — 268,072
30	268,073 — 293,702
29	293,703 — 322,796
28	322,797 — 355,972
27	355,973 — 393,983
26	393,984 — 437,757
25	437,758 — 488,450
24	488,451 — 547,509
23	547,510 — 616,761
22	616,762 — 698,547
21	698,548 — 795,884
20	795,885 — 912,721
19	912,722 — 1,054,287
18	1,054,288 — 1,227,609
17	1,227,610 — 1,442,287

<u>Size</u>	<u>Standard</u>	<u>Premium</u>	<u>Range</u>
<u>Group</u>			
<u>Number</u>			
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16	1,442,288	—	1,605,217
15	1,605,218	—	1,791,116
14	1,791,117	—	1,998,872
13	1,998,873	—	2,331,328
12	2,331,329	—	2,741,317
11	2,741,318	—	3,596,498
10	3,596,499	—	4,908,374
9	4,908,375	—	6,392,344
8	6,392,345	—	8,635,786
7	8,635,787	—	12,168,325
6	12,168,326	—	18,231,896
5	18,231,897 & over))		

RETROSPECTIVE RATING PLANS A, A1, A2, A3, AND B**STANDARD PREMIUM SIZE RANGES****Effective January 1, 1990**

<u>Size</u>	<u>Standard</u>	<u>Premium</u>	<u>Range</u>
<u>Group</u>			
<u>Number</u>			
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84	\$	3,430	—	\$ 3,956
83		3,957	—	4,542
82		4,543	—	5,192
81		5,193	—	5,912
80		5,913	—	6,707
79		6,708	—	7,584
78		7,585	—	8,549
77		8,550	—	9,610
76		9,611	—	10,773
75		10,774	—	12,047
74		12,048	—	13,440
73		13,441	—	14,961
72		14,962	—	16,620
71		16,621	—	18,427
70		18,428	—	20,393
69		20,394	—	22,529
68		22,530	—	23,149
67		23,150	—	24,450
66		24,451	—	25,845
65		25,846	—	27,344
64		27,345	—	28,955
63		28,956	—	30,688
62		30,689	—	32,556
61		32,557	—	34,571
60		34,572	—	36,748
59		36,749	—	39,102
58		39,103	—	41,651
57		41,652	—	44,416
56		44,417	—	47,419
55		47,420	—	50,685
54		50,686	—	54,243
53		54,244	—	58,125
52		58,126	—	62,367
51		62,368	—	67,012
50		67,013	—	72,106
49		72,107	—	77,703

<u>Size</u>	<u>Standard</u>	<u>Premium</u>	<u>Range</u>
<u>Group</u>			
<u>Number</u>			
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48	77,704	—	83,866
47	83,867	—	90,664
46	90,665	—	98,180
45	98,181	—	106,507
44	106,508	—	112,526
43	112,527	—	119,928
42	119,929	—	128,010
41	128,011	—	136,854
40	136,855	—	146,554
39	146,555	—	157,217
38	157,218	—	168,968
37	168,969	—	181,951
36	181,952	—	196,336
35	196,337	—	212,318
34	212,319	—	230,132
33	230,133	—	250,049
32	250,050	—	272,396
31	272,397	—	297,561
30	297,562	—	326,009
29	326,010	—	358,304
28	358,305	—	395,129
27	395,130	—	437,321
26	437,322	—	485,911
25	485,912	—	542,180
24	542,181	—	607,735
23	607,736	—	684,605
22	684,606	—	775,387
21	775,388	—	883,432
20	883,433	—	1,013,121
19	1,013,122	—	1,170,258
18	1,170,259	—	1,362,646
17	1,362,647	—	1,600,938
16	1,600,939	—	1,781,791
15	1,781,792	—	1,988,139
14	1,988,140	—	2,218,748
13	2,218,749	—	2,587,774
12	2,587,775	—	3,042,862
11	3,042,863	—	3,992,113
10	3,992,114	—	5,448,295
9	5,448,296	—	7,095,502
8	7,095,503	—	9,585,723
7	9,585,724	—	13,506,841
6	13,506,842	—	20,237,405
5	20,237,406	& over	

AMENDATORY SECTION (Amending Order 86-49, filed 1/23/87)

WAC 296-17-920 ASSESSMENT FOR SUPPLEMENTAL PENSION FUND. The amount of ((18.5)) 16.7 mills (((\$.0185))) (\$.0167) shall be retained by each employer from the earnings of each worker for each hour or fraction thereof the worker is employed. Provided that in classifications 6707 and 7102, the employer shall retain ((fifteen)) thirteen cents per day from each worker and in classification 6708 the employer shall retain ((1.8)) 1.67 mills (((\$.0018)))

(\$.00167) per hour to be reported for premium calculation under WAC 296-17-350(8) from each worker. The amount of money so retained from the employee shall be matched in an equal amount by each employer, except as otherwise provided in these rules, all such moneys shall be remitted to the department on or before the last day of January, April, July and October of each year for the preceding calendar quarter, provided self-insured employers shall remit to the department as provided under WAC 296-15-060. All such moneys shall be deposited in the supplemental pension fund.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-17-514 CLASSIFICATION 0401.
 WAC 296-17-515 CLASSIFICATION 0402.
 WAC 296-17-518 CLASSIFICATION 0503.
 WAC 296-17-520 CLASSIFICATION 0505.
 WAC 296-17-576 CLASSIFICATION 3301.
 WAC 296-17-57601 CLASSIFICATION 3302.
 WAC 296-17-662 CLASSIFICATION 5102.

WSR 89-24-052 PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed December 1, 1989, 4:59 p.m.]

Continuance of WSR 89-20-062.

Title of Rule: WAC 296-17-534 Classification 1002, Mills: Shake and/or shingles—Automated processes.

Purpose: Amend existing WAC to recognize changes in technology, processes, and hazard within shake and shingle mills with automated processes.

Statutory Authority for Adoption: RCW 51.04.020(1).

Statute Being Implemented: RCW 51.16.035.

Summary: Establishes a new subclassification code for shake and shingle mill operations with automated processes.

Reasons Supporting Proposal: Changes in technology, processes, and workplace hazard will produce a safer work environment, resulting in fewer and less costly claims. Using the existing classification for these operations would produce rates which are excessive for the exposure insured. Change proposed was requested by industry.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: R. L. McCallister, Douglas Connell, Frank Romero, 905 Plum Street S.E., Olympia, 753-1434.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Date of Intended Adoption: December 8, 1989.

December 1, 1989
 Joseph A. Dear
 Director

WSR 89-24-053

NOTICE OF PUBLIC MEETINGS

DEPARTMENT OF NATURAL RESOURCES

[Memorandum—December 1, 1989]

MOUNT SI NATURAL RESOURCES CONSERVATION AREA ADVISORY COMMITTEE MEETINGS

DATES:	January 30, 1990
	February 27, 1990
	March 27, 1990
	April 24, 1990
	May 29, 1990
	June 26, 1990
	July 31, 1990
	August 28, 1990
	September 25, 1990
TIME:	7:00 p.m.
LOCATION:	North Bend Railroad Depot 205 East McClellan North Bend, WA
PURPOSE:	The Mount Si Advisory Committee is working on a management plan recommendation for the Mount Si Natural Resources Conservation Area. All meetings are open to the public.

Direct questions and comments to Patricia Powell, Department of Natural Resources, 234 Eighth Avenue, EG-11, Olympia, WA 98504, or call (206) 753-2400.

WSR 89-24-054

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Filed December 4, 1989, 3:14 p.m.]

Date of Adoption: December 4, 1989.

Purpose: Commercial fishing regulation.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of coho salmon are available for a commercial fishery. This conforms state regulation with Yakima Tribe regulation.

Effective Date of Rule: Immediately.

December 4, 1989

Sally J. Hicks
 for Joseph R. Blum
 Director

NEW SECTION

WAC 220-32-05900R COLUMBIA RIVER
TRIBUTARIES—COMMERCIAL. Notwithstanding

the provisions of WAC 220-32-059, effective immediately until further notice, it is unlawful for any fisher to take, fish for, or possess salmon for commercial purposes from the Klickitat River except treaty Indian fishers possessing treaty rights under the Yakima Treaty may fish for coho salmon for commercial purposes as provided for in this section:

1. Waters between the Swinging Bridge and Fishway #5, open to fishing on the following, provided that fishing is not allowed within 25 feet of the entrance of any fishway.

12 Noon December 4 to 6 PM December 9

12 Noon December 11 to 6 PM December 16

12 Noon December 18 to 6 PM December 23

12 Noon December 25 to 6 PM December 30

2. Gear – Fishing may be conducted with dipnets, setbag nets, or hook and line with bait or lures. All other gears are unlawful.

WSR 89-24-055

PERMANENT RULES

LOTTERY COMMISSION

[Filed December 4, 1989, 4:48 p.m.]

Date of Adoption: December 1, 1989.

Purpose: To establish the game play rules and criteria for determining winners of instant games 50, 51 and 52.

Statutory Authority for Adoption: RCW 67.70.040.

Pursuant to notice filed as WSR 89-21-047 on October 13, 1989.

Changes Other than Editing from Proposed to Adopted Version: In Game 52, WAC 315-11-520(4), retailer verification codes were changed from one, two, for, egt to one, two, five, ten.

Effective Date of Rule: Thirty days after filing.

December 4, 1989

Evelyn Y. Sun
Director

NEW SECTION

WAC 315-11-500 DEFINITIONS FOR INSTANT GAME NUMBER 50 ("WALL STREET").
(1) Play symbols: The following are the "play symbols": "\$1.00"; "\$2.00"; "\$4.00"; "\$5.00"; "\$6.00"; "\$7.00"; "\$9.00"; "\$10.00"; "\$20.00"; "\$50.00"; "\$60.00"; "\$70.00"; "\$100"; "\$200"; "\$500"; "\$700"; "\$1,000"; "\$1,500"; "\$10,000"; "\$20,000"; "\$30,000"; and "\$40,000". One of these symbols appears under each of the three rub-off spots in the "buy" column and under each of the three rub-off spots in the "sell" column in the play field on the front of the ticket.

(2) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out in full or in abbreviated form of the play symbol. One and only one caption appears under each play symbol. For Instant Game Number 50, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOLS</u>	<u>CAPTION</u>
\$ 1.00	ONE
\$ 2.00	TWO
\$ 4.00	FOR
\$ 5.00	FIV
\$ 6.00	SIX
\$ 7.00	SVN
\$ 9.00	NIN
\$ 10.00	TEN
\$ 20.00	TWTY
\$ 50.00	FIFTY
\$ 60.00	SIXTY
\$ 70.00	SVNTY
\$ 100	ONEHUN
\$ 200	TWOHUN
\$ 500	FIVHUN
\$ 700	SVNHUN
\$ 1,000	ONETHO
\$ 1,500	FTNHUN
\$ 10,000	TENTHO
\$ 20,000	TWYTHO
\$ 30,000	THYTHO
\$ 40,000	FORTHO

(3) Prize symbols: The following are the "prize symbols": "\$1.00", "\$2.00", "\$4.00", "\$10.00", "\$50.00", "\$500", "\$10,000". One of these prize symbols appears for each game (row) in the "profit" column on the front of the ticket.

(4) Prize symbol captions: The small printed characters appearing below the prize symbols which correspond with and verify that prize symbol. The caption is a spelling out, in full or abbreviated form, of the prize symbol. Only one caption appears under the prize symbol. For Instant Game Number 50, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOLS</u>	<u>CAPTION</u>
\$ 1.00	ONE
\$ 2.00	TWO
\$ 4.00	FOR
\$ 10.00	TEN
\$ 50.00	FIFTY
\$ 500	FIVHUN
\$ 10,000	TENTHO

(5) Validation number: The unique nine-digit random number on the front of the ticket. The number is covered by latex.

(6) Pack-ticket number: The ten-digit number of the form 5000001-000 printed on the front of the ticket. The first two digits are the game identifier. The first seven digits of the pack-ticket number for Instant Game Number 50 constitute the "pack number" which starts at 5000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(7) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25 and less. For Instant

Game Number 50, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols and prize symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$1.00
TWO	\$2.00 (\$1 and \$1)
FOR	\$4.00 (\$1 and \$1 and \$2; \$2 and \$2; \$4)
TEN	\$10.00 (\$4 and \$4 and \$2; \$10)
TWY	\$20.00 (\$10 and \$10)

(8) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in a plastic bag or plastic shrinkwrapping.

NEW SECTION

WAC 315-11-501 CRITERIA FOR INSTANT GAME NUMBER 50. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner: The bearer of a ticket having a play symbol in the "buy" column that is a lesser amount than the play symbol in the "sell" column in the same game (row) shall win the prize shown in the "profit" column for that game (row). The bearer of a ticket having winning play symbols in more than one game (row) shall win the total amount of prizes in the games (rows) in which there are winning symbols. Play symbols in different games (rows) may not be combined to win a prize.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or payable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 50 set forth in WAC 315-11-502, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 50; and/or

(b) Vary the number of tickets sold in Instant Game Number 50 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

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

NEW SECTION

WAC 315-11-502 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 50. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 50 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the three rub-off spots in the "buy" column and under each of the three rub-off spots in the "sell" column on the front of the ticket.

(b) Each of the six play symbols must have a caption below and each must agree with its caption.

(c) Exactly one prize symbol for each of the three games (rows) must appear under the rub-off material covering the profit column on the front of the ticket.

(d) Each of the three prize symbols must have a caption below and each must agree with its caption.

(e) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the specifications on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Play Symbol Captions	Caption Font
Prize Symbols	Prize Symbol Font
Prize Symbol Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(f) Each of the play symbols and its caption, prize symbol and its caption, the validation number, pack-ticket number, and the retailer verification code must be printed in black ink.

(g) Each of the play symbols must be exactly one of those described in WAC 315-11-500(1); each of the captions must be exactly one of those described in WAC 315-11-500(2), the prize symbol must be exactly one of those described in WAC 315-11-500(3); and the prize symbol caption must be exactly one of those described in WAC 315-11-500(4).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11-510 DEFINITIONS FOR INSTANT GAME NUMBER 51 ("DOUBLE DOUGH"). (1) Play symbols: The following are the "play symbols": "\$1.00"; "4.00"; "24.00"; "50.00"; "2,500"; and " \$\$ ". One of these play symbols appears in each of the six blocks under the scratch-off material covering the game play data.

(2) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 51, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 4.00	FOR DOL
\$ 24.00	TWY FOR
\$ 50.00	\$FIFTY\$
\$ 2,500	TWF HUN
\$\$	DOUBLE

(3) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(4) Pack-ticket number: The eleven-digit number of the form 05100001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 51 constitute the "pack number" which starts at 05100001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25 or less. For Instant Game Number 51, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00
FOR	\$ 4.00
EGT	\$ 8.00
TTF	\$24.00

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

NEW SECTION

WAC 315-11-511 CRITERIA FOR INSTANT GAME NUMBER 51. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having the following play symbols in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

Three \$ 1.00 play symbols	- Win \$ 1.00
Two \$ 1.00 play symbols and one \$\$	- Win \$ 2.00
Three \$ 4.00 play symbols	- Win \$ 4.00
Two \$ 4.00 play symbols and one \$\$	- Win \$ 8.00
Three \$ 24.00 play symbols	- Win \$ 24.00
Three \$ 50.00 play symbols	- Win \$ 50.00
Two \$ 50.00 play symbols and one \$\$	- Win \$ 100.00
Three \$ 2500.00 play symbols	- Win \$ 2500.00
Two \$ 2500.00 play symbols and one \$\$	- Win \$ 5000.00

(b) In any event, only the highest instant prize amount meeting the standards of (a) of this subsection will be paid on a given ticket.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game

Number 51 set forth in WAC 315-11-512, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 51; and/or

(b) Vary the number of tickets sold in Instant Game Number 51 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-512 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 51. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 51 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the six rub-off spots on the main portion of the ticket.

(b) Each of the six play symbols must have a caption underneath, and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retail Verification Code	Validation Font

(d) Each of the play symbols and its caption, the validation number, pack-ticket number and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-510(1) and each of the captions must be exactly one of those described in WAC 315-11-510(2).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11-520 DEFINITIONS FOR INSTANT GAME NUMBER 52 ("GRAND SLAM").

(1) Play symbols: The following are the "play symbols": "WALK"; "STEAL"; "SINGLE"; "DOUBLE"; "TRIPLE"; "HOMERUN"; "GRAND SLAM"; "STRIKE OUT"; "DOUBLE PLAY"; "FOULED OUT"; "POP FLY"; "THROWN OUT"; "TAGGED OUT"; AND "FORCED OUT". One of these symbols appears in each of the four play areas (games) under the rub-off area on the front of the ticket.

(2) Validation number: The unique nine-digit random number on the front of the ticket. The number is covered by latex.

(3) Pack-ticket number: The eleven-digit number of the form 05200001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game

Number 52 constitute the "pack number" which starts at 05200001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25 and less. For Instant Game Number 52, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols and prize symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRISE</u>
ONE	\$1.00
TWO	\$2.00 (\$1 and \$1)
FIV	\$5.00 (\$1, \$2 and \$2; \$1, \$1, \$1 and \$2; \$5)
TEN	\$10.00 (\$1, \$2, \$2 and \$5; \$5 and \$5; \$10)

(5) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in a plastic bag or plastic shrinkwrapping.

NEW SECTION

WAC 315-11-521 CRITERIA FOR INSTANT GAME NUMBER 52. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner: A ticket having the following play symbols in any of the four games shall win the following prizes:

<u>PLAY SYMBOL</u>	<u>PRISE</u>
WALK	\$ 1.00
STEAL	\$ 2.00
SINGLE	\$ 5.00
DOUBLE	\$ 10.00
TRIPLE	\$ 50.00
HOMERUN	\$ 500
GRAND SLAM	\$ 10,000

The bearer of a ticket having winning play symbols in more than one game shall win the total amount of the prizes won in each game. The ticket shall bear a legend which lists the winning play symbols and their corresponding prizes.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or payable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 52 set forth in WAC 315-11-522, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 52; and/or

(b) Vary the number of tickets sold in Instant Game Number 52 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

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

NEW SECTION

WAC 315-11-522 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 52. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 52 all of the following validation requirements apply.

(a) Exactly one play symbol must appear in each of the games under the rub-off area on the front of the ticket.

(b) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the specifications on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(c) Each of the play symbols, the validation number, pack-ticket number, and the retailer verification code must be printed in black ink.

(d) Each of the play symbols must be exactly one of those described in WAC 315-11-520(1).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

WSR 89-24-056 NOTICE OF PUBLIC MEETINGS MARINE EMPLOYEES' COMMISSION

[Memorandum—December 4, 1989]

The following is the schedule of the 1990 regular meetings of the Marine Employees' Commission:

Date	Location
January 26	Olympia
February 23	Olympia
March 23	Seattle
April 27	Seattle
May 25	Seattle
June 22	Seattle
July 27	Seattle
August 24	Seattle
September 28	Seattle
October 26	Seattle
November 16	Seattle
December 21	Seattle

All meetings begin at 10:00 a.m. on the day scheduled. The January and February meetings will be held at the

offices of the Marine Employees' Commission, Evergreen Plaza Building, Main Floor, SW Quadrant, 711 Capitol Way South, Olympia.

As a general rule, the Marine Employees' Commission holds its monthly meetings in Seattle at the Port Commission Conference Room, Third Floor, Pier 66, Seattle. In the event the conference room is unavailable, meetings will be held at Pier 52, Washington State Ferries Terminal, "Spike" Eikum Conference Room, Seattle. Locations for Seattle meetings can be obtained by writing to the commission at the address listed below or by calling (206) 586-6354 or 321-6354 scan.

Meeting sites are barrier free to the greatest extent feasible. Brailled or taped agenda items for the visually impaired, and interpreters for those with hearing impairment will be provided if requested with adequate notice. Such requests should be made at least ten working days in advance of the scheduled meeting date, and should be addressed to:

Janis Lien, Administrative Assistant
Marine Employees' Commission
Main Floor, SW Quadrant
Evergreen Plaza Building, FJ-11
Olympia, Washington 98504

WSR 89-24-057

PROPOSED RULES

DEPARTMENT OF LICENSING (Board of Registration for Professional Engineers and Land Surveyors)

[Filed December 5, 1989, 10:55 a.m.]

Original Notice.

Title of Rule: WAC 196-08-030 Appearance and practice before agency—Solicitation of business unethical; 196-24-090 Branch offices; 196-24-092 Offer to practice; and 196-27-020 Fundamental canons and guidelines for professional practice.

Purpose: Regulate the practice of engineering and land surveying in the state of Washington.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: Chapter 18.43 RCW.

Summary: WAC 196-08-030 is to be repealed. This outdated section (1960) appears to limit the ability of attorneys to advertise. The section has not been enforced but concerns about its content were raised by the FTC. The remaining amendatory sections and the new section are intended to clarify who may offer to practice and clarify their limitations on solicitation of work and advertisement of professional services.

Reasons Supporting Proposal: Review of existing rules demonstrated unclear language and outdated requirements that require revision.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Alan E. Rathbun, 1300 Quince Street, Olympia, WA 98501, (206) 753-3634.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 196-08-030, repeal outdated rule that does not affect regulation; WAC 196-24-090, remove unclear language relative to a firm's ability to solicit work; WAC 196-24-092, define what the offer to practice entails and who is qualified to offer engineering and land surveying services; and WAC 196-26-020(5), clarify the rules of professional conduct relative to improper solicitation of professional services and what forms of advertising of services is not permitted.

Proposal Changes the Following Existing Rules: This proposal modifies existing rules relative to solicitation of professional work and advertisement of professional services. It clarifies existing language and reflects more clearly the intent of chapter 18.43 RCW. These rules will be used by licenses [licensees] and will more clearly delineate proper from improper practice.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Seattle Marriott, Sea-Tac, City Suite Area, 3201 South 176th Street, Seattle, WA, on January 19, 1990, at 9:00 a.m.

Submit Written Comments to: Alan E. Rathbun, P.O. Box 9649, Olympia, Washington 98504, by January 18, 1990.

Date of Intended Adoption: January 19, 1990.

December 1, 1989

Alan E. Rathbun, P.E.
Registrar

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 196-08-030 APPEARANCE AND PRACTICE BEFORE AGENCY—SOLICITATION OF BUSINESS UNETHICAL.

AMENDATORY SECTION (Amending Order 81-10, filed 12/18/81)

WAC 196-24-090 BRANCH OFFICES. (1) A branch office of an engineering or land surveying firm shall be defined as an office established to solicit and/or provide engineering and/or land surveying services. A resident professional engineer/land surveyor shall be defined as a person holding a valid certificate of registration in this state and who maintains said branch office as his normal place of business. A professional engineer or professional land surveyor may be the resident licensee at only one place of business at any given time.

(2) Each branch office of an engineering firm shall have a resident professional engineer in responsible charge. Each branch office of a surveying firm shall have a resident professional land surveyor in responsible charge.

(3) Branch office restrictions shall not apply to project offices. A project office shall be defined as an office established to provide:

(a) Supervision for construction of a project designed elsewhere.
(b) Supervision of or providing a convenient work place for a specific land surveying or engineering project.

((4) No new work shall be solicited by the firm's representative located at a project office.))

NEW SECTION

WAC 196-24-092 OFFER TO PRACTICE. The offer to practice engineering or land surveying services shall include, but not be limited to, identification of the scope of work and/or estimated cost of said services. Said offer to practice shall be performed by or under the direct supervision of a licensee qualified to offer said services under the provisions of chapter 18.43 RCW.

AMENDATORY SECTION (Amending Order PM 606, filed 6/4/87)

WAC 196-27-020 FUNDAMENTAL CANONS AND GUIDELINES FOR PROFESSIONAL PRACTICE. (1) Registrants shall hold paramount the safety, health, and welfare of the public in the performance of their professional duties.

(a) Registrants shall recognize that the lives, safety, health, and welfare of the general public are dependent upon engineering/land surveying judgments, decisions, and practices incorporated into structures, machines, products, processes, and devices.

(b) Registrants shall approve or seal only those design documents, prepared by them or under their direct supervision, which are determined to be safe for public health and welfare in conformity with accepted standards.

(c) Registrants whose professional judgment is overruled under circumstances where the safety, health, and welfare of the public are endangered shall inform their clients or employers of the possible consequences.

(d) Registrants who have knowledge or reason to believe that another person or firm may be in violation of any of the provisions of chapter 18.43 RCW or these rules of professional conduct shall present such information to the board in writing and shall cooperate with the board in furnishing such further information or assistance as may be required.

(2) Registrants shall perform services only in areas of their competence.

(a) Registrants shall undertake to perform assignments only when qualified by education or experience in the technical field of engineering or land surveying involved.

(b) Registrants may accept an assignment requiring education or experience outside their own fields of competence, provided their services are restricted to those phases of the project in which they are qualified. All other phases of such project shall be performed by qualified associates, consultants or employees.

(c) Registrants shall not affix their signatures or seals to any plan or document dealing with subject matter in which they lack competence by virtue of education or experience or to any such plan or document not prepared under their supervisory control.

(3) Registrants shall issue public statements only in an objective and truthful manner.

(a) Registrants should endeavor to extend the public knowledge of engineering or land surveying and shall not participate in the dissemination of untrue, unfair, or exaggerated statements regarding said professions.

(b) Registrants shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony.

(c) Registrants when serving as expert witness, shall express and engineering or land surveying opinion only when it is founded upon adequate knowledge of the facts, upon a background of technical competence, and upon honest conviction.

(d) Registrants shall issue no statements, criticisms, or arguments on engineering or land surveying matters which are inspired or paid for by interested parties, unless they indicate on whose behalf the statements are made.

(4) Registrants shall act in professional matters for each employer or client as faithful agents or trustees, and shall avoid conflicts of interest.

(a) Registrants shall avoid all known or potential conflicts of interest with their employers or clients and shall promptly inform their employers or clients of any business association, interest, or circumstances which could influence their judgment or the quality of their services.

(b) Registrants shall not accept compensation from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed to and agreed to, by all interested parties.

(c) Registrants shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with their clients or employers in connection with work for which they are responsible.

(d) Registrants in public service as members, advisors, or employees of a governmental body or department shall not participate in considerations or actions with respect to services solicited or provided by them or their organization in private or public engineering/land surveying practice.

(e) Registrants shall advise their employers or clients when, as a result of their studies, they believe a project will not be successful.

(f) Registrants shall not use confidential information coming to them in the course of their assignments as a means of making personal profit if such action is adverse to the interests of their clients, employers or the public.

(g) Registrants shall not accept professional employment outside of their regular work or interest without the knowledge of their employers.

(5) Registrants shall build their professional reputation on the merit of their services and shall not compete unfairly with others.

(a) Registrants ((~~shall not give, solicit or receive either directly or indirectly, any commission, political contribution, or a gift or other consideration in order to secure work, exclusive of~~) should not offer money, goods or other favors as inducement to receive favorable consideration for a professional assignment. Also, registrants should not accept money, goods or other favors as inducement to approve, authorize or influence the granting of a professional assignment. This shall not preclude the securing of salaried positions through employment agencies.

(b) Registrants should negotiate contracts for professional services fairly and on the basis of demonstrated competence and qualifications for the type of professional service required.

(c) Registrants shall not request, propose or accept professional commissions on a contingent basis under circumstances in which their professional judgments may be compromised.

(d) Registrants shall not falsify or permit misrepresentation of their academic or professional qualifications or experience.

(e) Registrants ((~~may~~) shall not advertise professional services in a way that ((does not contain self-laudatory or misleading language)) is false or misleading as to the qualification, experience, or capability of the registrant.

(f) Registrants shall not participate in a selection process or be employed in an assignment where said selection was awarded by a process determined to be in violation of chapter 39.80 RCW.

(6) Registrants shall continue their professional development throughout their careers, and shall provide opportunities for the professional development of those individuals under their supervision.

(7) Registrants shall respond to any legal request for information by the board and/or appear before the board in the time frame established by the board or their staff designee.

WSR 89-24-058**PROPOSED RULES****DEPARTMENT OF LICENSING**

[Filed December 5, 1989, 10:58 a.m.]

Original Notice.

Title of Rule: WAC 308-13-150 Landscape architect fees.

Purpose: To set fees collected by the Department of Licensing for services and renewals of landscape architect licenses.

Statutory Authority for Adoption: RCW 43.24.086.

Statute Being Implemented: RCW 18.96.080.

Summary: This amendment sets forth the respective fees to be collected by the Department of Licensing for services, applications, examinations, registration and renewal of professional licenses.

Reasons Supporting Proposal: Implement the fee structure to support the landscape architect registration program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James D. Hanson, 1300 Quince, Olympia, 753-6967.

Name of Proponent: Department of Licensing, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment changes the amounts of fees and adds new types of fees to be collected by the Department of Licensing for application for registration, examination, and renewals of landscape architect licenses.

Proposal Changes the Following Existing Rules: The amendment adds new types of fees and increases the amount of current fees.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Licensing Training Center, 421 Black Lake Boulevard, Olympia, WA 98502, on January 11, 1990, at 10:00 a.m.

Submit Written Comments to: James D. Hanson, Architect Registration Board, P.O. Box 9649, Olympia, Washington 98504, by January 9, 1990.

Date of Intended Adoption: January 11, 1990.

December 5, 1989
James D. Hanson
Executive Secretary

AMENDATORY SECTION (Amending Order PM 702, filed 1/26/88)

WAC 308-13-150 LANDSCAPE ARCHITECT FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Application fee(:)	\$150.00
((Nonrefundable)) Examination or reexamination (entire) fee	((290.00)) 350.00
((Refundable fee for issuance of certificate	100.00
Total application fee	390.00
Reexamination(:) fee	50.00
Section 1 ((only))	((7.00)) 20.00
Section 2 ((only))	((23.00)) 30.00
Section 3 ((only))	((84.00)) 100.00
Section 4 ((only))	((78.00)) 85.00
Section 5 ((only))	((53.00)) 65.00
Section 6 ((only))	((35.00)) 50.00
Exam proctor	100.00
Renewal (3 years)	((180.00)) 450.00
Late renewal penalty	((60.00)) 150.00
Duplicate license	((15.00)) 25.00
Initial registration (3 years)	450.00
Reciprocity application fee ((filing and investigation fee)))	((150.00)) 200.00
Certification	((25.00)) 45.00
Proctoring program	125.00
Replacement certificate	20.00

WSR 89-24-059

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed December 5, 1989, 11:02 a.m.]

Original Notice.

Title of Rule: WAC 308-12-326 Architect fees.

Purpose: To set fees collected by the Department of Licensing for services and renewals of architect licenses.

Statutory Authority for Adoption: RCW 43.24.086.

Statute Being Implemented: RCW 18.08.350.

Summary: This amendment sets forth the respective fees to be collected by the Department of Licensing for services, applications, examinations, registration and renewal of professional licenses.

Reasons Supporting Proposal: Implement the fee structure to support the architect registration program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James D. Hanson, 1300 Quince, Olympia, 753-6967.

Name of Proponent: Department of Licensing, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment changes the amounts of fees and adds new types of fees to be collected by the Department of Licensing for application for registration, examination, and renewals of architect licenses.

Proposal Changes the Following Existing Rules: The amendment adds new types of fees and increases the amount of current fees.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Licensing Training Center, 421 Black Lake Boulevard, Olympia, WA 98502, on January 11, 1990, at 9:00 a.m.

Submit Written Comments to: James D. Hanson, Architect Registration Board, P.O. Box 9649, Olympia, Washington 98504, by January 9, 1990.

Date of Intended Adoption: January 11, 1990.

December 5, 1989
James D. Hanson
Executive Secretary

AMENDATORY SECTION (Amending Order PM 650, filed 5/1/87)

WAC 308-12-326 ARCHITECT FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Application	((-\$50.00)) \$100.00
Examination (initial or retake full)	((300.00)) 345.00
Reexamination	25.00
Initial registration ((fee))	((35.00)) 45.00
Oral examination	50.00
Registration renewal	45.00
Late renewal	15.00
Certificate replacement	15.00
Examination proctor fee	((50.00)) 100.00

Title of Fee	Fee
<u>((Registration (without full examination) Reciprocity application))</u>	<u>250.00</u>) <u>350.00</u>
Exam retake:	
Division A: Predesign	((30.00)) 35.00
Division B: Site design (<u>written</u>)	((65.00)) 20.00 55.00
<u>Division B: Site design (graphic)</u>	<u>85.00</u>)
Division C: Building design	((80.00)) 30.00 15.00
<u>((Division D: Structural—General))</u>	<u>15.00</u>)
Division D/F: Structural—General and long span	<u>+5.00</u>) 35.00
Division E: Structural—Lateral forces	((+0.00)) 15.00
<u>((Division F: Structural—Long span))</u>	<u>+10.00</u>)
Division G: Mechanical, plumbing, and electrical ((and safety)) systems	((30.00)) 35.00
Division H: Materials and methods	((30.00)) 35.00
Division I: Construction documents and services	((30.00)) 35.00
Duplicate license	15.00
Certification	25.00
Corporations:	
Certificate of authorization	250.00
Certificate of authorization renewal	((+0.00)) 125.00

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: RCW 34.05.380 (3)(a), the amended State Constitution, Article IV, Section 31, effective December 5, 1989, requires the Commission on Judicial Conduct to adopt rules pursuant to the Administrative Procedure Act. Changes in the Constitution and statute alter the commission's authority, requiring changes for processing cases from the present rules adopted under RCW 34.08.020 and last amended May 5, 1989.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Article IV, Section 31(10) states: "The Commission shall establish rules of procedure for Commission proceedings including due process and confidentiality of proceedings."

Effective Date of Rule: Immediately.

December 5, 1989

Wesley A. Nuxoll

Chairman

Reviser's note: The material contained in this filing will appear in the 90-01 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 89-24-060

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Filed December 5, 1989, 3:15 p.m.]

Continuance of WSR 89-21-075.

Title of Rule: Chapter 173-422 WAC, Motor vehicle emission inspection.

Date of Intended Adoption: February 6, 1990.

November 29, 1989
Fred Olson
Deputy Director

WSR 89-24-061

EMERGENCY RULES

COMMISSION ON JUDICIAL CONDUCT

[Order 1—Filed December 5, 1989, 3:25 p.m.]

Date of Adoption: December 5, 1989.

Purpose: To comply with constitutional amendment, section 31, effective December 5, 1989, requiring adoption of rules pursuant to chapter 34.05 RCW and establishing rules to implement changes in law.

Citation of Existing Rules Affected by this Order: Rules previously adopted as required under RCW 2.64-.091 and published in Volume 0 of the RCW following court rules.

Statutory Authority for Adoption: Chapter 2.64 RCW.

Other Authority: Washington State Constitution, Article IV, Section 31 (SSJR 8202).

WSR 89-24-062

RULES COORDINATOR

CENTRALIA COLLEGE

[Filed December 5, 1989, 3:28 p.m.]

Jack R. Kalmbach, Dean of Administration, is the rules coordinator for Centralia College, District 12.

WSR 89-24-063

PROPOSED RULES

DEPARTMENT OF GENERAL ADMINISTRATION

(Division of Banking)

[Filed December 5, 1989, 4:07 p.m.]

Original Notice.

Title of Rule: Insurance agency activities of state-chartered commercial banks and trust companies.

Purpose: This rule is intended to administer and interpret the provisions governing the authority of state-chartered commercial banks and trust companies to act as general insurance agents pursuant to the provisions in RCW 30.04.215(1), 30.08.140(10) and 30.08.150(3).

Statutory Authority for Adoption: RCW 30.04.030.

Statute Being Implemented: RCW 30.04.215(1), 30.08.140(10) and 30.08.150(3).

Summary: The proposed rule authorizes a bank or trust company to conduct general insurance agency activities under certain limited circumstances. RCW 30.08.140(10) authorizes a bank to act as insurance agent if the bank is located in a city of less than five

thousand inhabitants. However, the statute does not define key terms used in that provision. The proposed rule defines these key terms and authorizes a bank (including a branch of a bank) located in a city of less than five thousand inhabitants to conduct general insurance agency activities to the same extent as any general insurance agent licensed under the insurance code. This interpretation is consistent with the comptroller of the currency's interpretation of a similar provision in the National Bank Act, 12 USC Section 92. Comptroller Staff Interpretive Letter No. 366 (August 18, 1986). The proposed rule also interprets a provision in the trust powers statute, RCW 30.08.150(3), authorizing a trust company to act as agent "for any purpose." The plain meaning of the phrase "for any purpose" includes the authority to act as general insurance agent. Finally, RCW 30.04.215(1) authorizes a bank to conduct activities authorized [by] a bank holding company under federal law. In 1982 Congress passed the Garn-St. Germain Depository Institutions Act of 1982, P.L. 97-320. In Title VI of that statute, Congress amended Section 4 (c)(8) of the Bank Holding Company Act of 1956 (the "BHCA"), 12 USC Section 1843 (c)(8), to allow certain insurance related activities. The proposed rule incorporates exceptions (A), (B) and (F) of Section 4 (c)(8) of the BHCA into the activities authorized state-chartered banks under RCW 30.04.215(1). The rule also makes violations of any federal or state consumer protection law or anticompetitive law in the conduct of general insurance agency activities an unsafe or unsound practice authorizing the supervisor to impose a cease and desist order pursuant to RCW 30.04.450.

Reasons Supporting Proposal: As a result of a lack of undefined terms in the small town exception in RCW 30.08.140(10) and the "agent for any purpose" provision in RCW 30.08.150(3), uncertainty regarding the scope of these provisions have become evident. The Washington Bankers Association has petitioned the supervisor pursuant to RCW 34.05.330 to address the issue of scope by regulation. The supervisor has determined that clarification of these issues is necessary to alleviate uncertainty and to assure, under the requirements of RCW 30.04.030, that the delivery of financial services to the citizens of the state of Washington are facilitated. Accordingly, the supervisor is inviting public comment on these issues to assure all interested parties are heard. The incorporation of exceptions (A), (B) and (F) of Section 4 (c)(8) of the BHCA clarifies the supervisor's position on the areas of the BHCA that apply to state-chartered institutions. The regulatory enforcement powers of the supervisor are preserved by granting the supervisor cease and desist authority should any bank or trust company engage in any activity that would be a violation of a state or federal consumer protection or anticompetitive law.

Name of Agency Personnel Responsible for Drafting and Implementation: John L. Bley, 219 General Administration Building, Olympia, Washington 98504, 753-6520; and **Enforcement:** Thomas H. Oldfield, 219 General Administration Building, Olympia, Washington 98504, 753-6520.

Name of Proponent: Division of Banking, governmental, at the request of Washington Bankers Association, private.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The supervisor has determined that appropriate powers are conferred by statute to accomplish needed regulatory oversight.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule administers and interprets certain provisions of the banking statutes, Title 30 RCW, governing the authority of state-chartered banks to act as a general insurance agent. The main purpose of the rule is to clarify certain ambiguities in the statutes by defining certain key terms not defined in the statute. The rule will have the effect of alleviating the uncertainty caused by such ambiguities.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The supervisor has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons: The rule requires no action by business; there are no direct or indirect costs for business to comply with the rule; and the rule does not have the effect of decreasing the value of the business.

Hearing Location: General Administration Building, Room G150, Olympia, Washington 98504, on January 9, 1990, at 1:30 p.m.

Submit Written Comments to: Thomas H. Oldfield, Supervisor of Banking or John L. Bley, Deputy Supervisor of Banking, by January 9, 1990.

Date of Intended Adoption: January 9, 1990.

December 5, 1989
Thomas H. Oldfield
Supervisor of Banking

NEW SECTION

WAC 50-12-310 INSURANCE AGENCY ACTIVITIES—PROMULGATION. The division of banking, after due and proper notice, and pursuant to the general rule-making authority in RCW 30.04.030 hereby adopts and promulgates the following rules and regulations.

NEW SECTION

WAC 50-12-320 INSURANCE AGENCY ACTIVITIES—PURPOSE. These rules and regulations are intended to administer and interpret the provisions governing the authority of state-chartered commercial banks and trust companies to act as general insurance agents pursuant to the provisions in RCW 30.04.215(1), 30.08.140(10), and 30.08.150(3).

NEW SECTION

WAC 50-12-330 INSURANCE AGENCY ACTIVITIES—DEFINITIONS. (1) "Bank" means a bank chartered under the provisions of Title 30 RCW.

(2) "Trust company" means a trust company chartered under the provisions of Title 30 RCW.

(3) "Insurance agent" means any person, including a bank, appointed by an insurer to solicit applications for insurance on its behalf and conduct such other activities and be subject to such restrictions of an insurance agent as authorized by the Washington insurance code, Title 48 RCW.

(4) "City" means a municipal corporation and the territory within the corporate limits whose boundaries and powers of self-government are defined by charter from the state of Washington.

(5) "Located in a city" means operating a duly certificated branch within the city limits of the city.

(6) "Act as insurance agent" means to exercise the full power of an insurance agent on all lines of insurance subject only to the limitations and requirements of Title 48 RCW.

NEW SECTION

WAC 50-12-340 INSURANCE AGENCY ACTIVITIES—GENERAL RULE. A bank may not act as a general insurance agent.

NEW SECTION

WAC 50-12-350 INSURANCE AGENCY ACTIVITIES—EXCEPTIONS. (1) A bank located in a city of not more than five thousand inhabitants may act as insurance agent. A bank exercising this power may continue to act as insurance agent notwithstanding a change of the population of the city in which it is located.

(2) A trust company may act as an insurance agent pursuant to its powers under RCW 30.08.150(3) "to act as attorney in fact or agent of any corporation, foreign or domestic, for any purpose, statutory or otherwise."

(3) A bank may engage in insurance activities that have been determined by the board of governors of the federal reserve system or by the United States Congress to be closely related to the business of banking, as of June 11, 1986. These activities include, but are not limited to:

(a) General insurance agency activities conducted by a bank with total assets of fifty million dollars or less, provided, however, that such bank may not engage in the sale of life insurance or annuities. For purposes of this exception "total assets" is determined by the latest consolidated report of condition filed with the supervisor of banking. This exception ceases when the value of the assets of the bank exceed fifty million dollars. The insurance agency license must be surrendered and the assets sold or otherwise disposed of within three years unless otherwise extended by the supervisor of banking.

(b) A bank may act as agent for life, disability, and involuntary unemployment insurance if the insurance is limited to assuring the repayment of the outstanding balance due on a specific extension of credit by the bank.

(c) A bank may act as agent for property insurance on loan collateral, provided such insurance is limited to assuring repayment of the outstanding balance of the extension of credit and such extension of credit is not more than ten thousand dollars (twenty-five thousand dollars to finance the purchase of a residential manufactured home and which is secured by such home) increased by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics for the period beginning on January 1, 1982, and ending on December 31 of the year preceding the year of the extension of credit.

(4) A bank or trust company may engage in any insurance agency activity lawfully engaged in by national banks located in the state of Washington.

NEW SECTION

WAC 50-12-360 INSURANCE AGENCY ACTIVITIES—SUBSIDIARY. A bank or trust company may conduct general insurance agency activities through a subsidiary of the bank or trust company as authorized by RCW 30.04.125(8).

NEW SECTION

WAC 50-12-370 INSURANCE AGENCY ACTIVITIES—ENFORCEMENT. It shall be considered an unsafe and unsound practice in conducting the affairs of the bank or trust company if in the opinion of the supervisor the insurance agency activities of the bank or bank subsidiary are:

(1) A violation of any applicable state or federal consumer protection law; or

(2) A violation of any applicable state or federal statute prohibiting anticompetitive activities.

WSR 89-24-064

PROPOSED RULES

HIGHER EDUCATION COORDINATING BOARD

[Filed December 5, 1989, 4:35 p.m.]

Continuance of WSR 89-23-129.

Title of Rule: State need grant program.

Purpose: Implementing a revised state need grant program.

Statutory Authority for Adoption: RCW 28B.10.800 – [28B.10.]822.

Statute Being Implemented: RCW 28B.10.800 – [28B.10.]822.

Summary: These rules substantially redefine the method by which the eligible student is identified and served in the state need grant program.

Reasons Supporting Proposal: This is a Higher Education Coordinating Board approved revision of the state need grant program undertaken after extensive study and public comment.

Name of Agency Personnel Responsible for Drafting and Implementation: John Klacik, GV-11, 586-1405; and Enforcement: Shirley Ort, GV-11, 586-6404.

Name of Proponent: Higher Education Coordinating Board, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Implements a revised state need grant program for the 1990-91 academic year.

Proposal Changes the Following Existing Rules: All process by which the eligible student is identified and served.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Seattle Public Library Auditorium, 1000 Fourth Avenue, Seattle, (206) 386-4636, on January 2, 1990, at 9:30 – 12 noon; at the Higher Education Coordinating Board Conference Room, 917 Lakeridge Drive, Olympia, WA, (206) 753-3571, on January 4, 1990, at 9:30 – 12 noon; and at the Spokane Public Library Auditorium, West 906 Main Street, Spokane, (509) 838-4226, on January 5, 1990, at 1:00 – 3:30 p.m.

Submit Written Comments to: John Klacik, 917 Lakeridge Way, GV-11, Olympia, WA 98504, by January 11, 1990.

Date of Intended Adoption: January 17, 1990.

December 5, 1989

John Klacik

Associate Director

Student Financial Aid

WSR 89-24-065

EMERGENCY RULES

DEPARTMENT OF LICENSING

[Filed December 5, 1989, 4:39 p.m.]

Date of Adoption: December 5, 1989.

Purpose: Increase the license fees for collection agencies and branch offices to allow the profession to fully support the cost of regulating collection agencies.

Citation of Existing Rules Affected by this Order:
Amending WAC 308-29-045.

Statutory Authority for Adoption: RCW 19.16.140.

Other Authority: RCW 43.24.086.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: License renewal fees for collection agencies are due at the end of each year. If license fees are not increased this year the rate of increase will double next year, to recoup the same revenue amount during the biennium, imposing a financial burden on the licensees. If the fees are not raised in 1989, the Department of Licensing may be forced to reduce services to the consumers and/or licensees.

Effective Date of Rule: Immediately.

December 5, 1989
Sydney W. Beckett
Acting Assistant Director

AMENDATORY SECTION (Amending Order PM 650, filed 5/1/87)

WAC 308-29-045 COLLECTION AGENCY FEES. *The following fees shall be charged by the professional licensing services division of the department of licensing:*

<i>TITLE OF FEE</i>	<i>Fee</i>
<i>Collection agency—Main office:</i>	
<i>Original application</i>	<i>\$ 350.00</i>
<i>Investigation (nonrefundable)</i>	<i>250.00</i>
<i>Renewal</i>	<i>525.00</i>
<i>Late renewal penalty</i>	<i>300.00</i>
<i>Reregistration fee after 30 days</i>	<i>1,425.00</i>
<i>Duplicate license</i>	<i>15.00</i>
<i>Certification</i>	<i>25.00</i>
<i>Branch office:</i>	
<i>Original application</i>	<i>300.00</i>
<i>Renewal</i>	<i>300.00</i>
<i>Late renewal penalty</i>	<i>150.00</i>
<i>Reregistration fee after 30 days</i>	<i>750.00</i>
<i>Duplicate license</i>	<i>15.00</i>
<i>Certification</i>	<i>25.00</i>

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

DEPARTMENT OF AGRICULTURE

[Filed December 5, 1989, 4:47 p.m.]

Original Notice.

Title of Rule: Chapter 16-317 WAC, rules relating to labeling small grain seed.

Purpose: To implement requirements of chapter 15.49 RCW.

Statutory Authority for Adoption: Chapter 15.49 RCW.

Statute Being Implemented: Chapter 15.49 RCW.

Summary: To remove language that is inconsistent with other seed labeling requirements and to bring this chapter into compliance with chapter 15.49 RCW.

Reasons Supporting Proposal: To clarify marketing requirements of small grain seeds.

Name of Agency Personnel Responsible for Drafting: Bill Brookreson, 406 General Administration Building, Olympia, 586-5306; Implementation and Enforcement: Max Long, 2015 South 1st Street, Yakima, WA, (509) 575-2750.

Name of Proponent: Department of Agriculture, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: To remove language that is inconsistent with other seed labeling requirements and to bring this chapter into compliance with chapter 15.49 RCW. It is anticipated that this will facilitate marketing of small grain seed.

Proposal Changes the Following Existing Rules: This modifies the language to be consistent with other seed labeling rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Ag Service Center Conference Room, 2015 South First Street, Yakima, WA 98903, on January 11, 1990, at 1:15 p.m.

Submit Written Comments to: Max Long, 2015 South 1st Street, Yakima, WA 98903, by January 11, 1990.

Date of Intended Adoption: January 25, 1990.

December 5, 1989
William E. Brookreson
Assistant Director

AMENDATORY SECTION (Amending Order 1699, filed 5/30/80)

WAC 16-317-040 LABELING REQUIREMENTS FOR SMALL GRAIN, FIELD PEA, LENTIL, AND/OR SOYBEAN SEEDS((, AND LAWN AND/OR PASTURE MIXES)). Labeling requirements shall be as specified in ((RCW 15.49.320 of the Washington State Seed Act)) WAC 16-318-200 through 16-318-235 and 16-318-040 through 16-318-065. In addition, labels for small grain seed shall contain the following information:

(1) Each variety (e.g., Nugaines), ((type)) whether the variety is typically a winter or spring(())) sown variety, and kind (e.g., wheat)((; or each type and kind when in excess of five percent by weight of the whole)); or ((type)) may not be shown: PROVIDED, That the label shall conspicuously show the words "((type)) typical sowing season not stated."

(2) A tetrazolium test may be used in lieu of germination: PROVIDED, That the label shall state "Tetrazolium %," and that a germination test of the lot is in process and shall be made available to the purchaser when completed. The label shall also show the calendar month and year the tetrazolium test was completed.

AMENDATORY SECTION (Amending Order 1699, filed 5/30/80)

WAC 16-317-050 ALTERNATE LABELING REQUIREMENTS AND EXEMPTIONS. (1) Small grain, field pea, lentil, and/or soybean seed distributed in packaged form to a wholesaler or a commercial grower for his own use and accompanied by an invoice or other document containing the labeling information required in ((RCW 15.49.320 (1)(a), (b), (d), (g) and (2)(a), (b), (c), (d), and (e) of the Washington State Seed Act)) WAC 16-318-200 through 16-318-235 and 16-318-040 through 16-318-065 need attached labels containing only information required in ((RCW 15.49.320 (1)(a), (b), (c) and (e);) WAC 16-318-205 (1) and (2); WAC 16-318-040 through 16-318-065; and the net weight of the seed and small grain seed labels shall also contain additional information in WAC 16-317-040(1): PROVIDED, That the purchaser has knowledge of and consents to said invoice labeling.

(2) When seed is needed for immediate planting, a purchaser may waive the seed analysis information requirement for his purchase by completion of the following waiver:

CUSTOMER WAIVER AFFIDAVIT

Date

.....
.....
.....

(Seed Dealer's Name and Address)

I,, because of an emergency need for seed, am waiving my rights as provided in RCW ((15.49.320(4))) 15.49.021 to receive the germination and purity information required in ((RCW 15.49.320 (1)(g) and (2);) chapter 16-318 WAC on lot/s purchased on: PROVIDED, That within thirty days, the supplier provides the above information to me in writing.

.....
(Customer's Signature)

(3) When small grain, field pea, lentil, and/or soybean seed is distributed in bulk, the information required in ((RCW 15.49.320 of the Washington State Seed Act)) WAC 16-318-200 through 16-318-235 and 16-318-040 through 16-318-065 and for small grain, the information in WAC 16-317-040 shall be provided on the invoice or other document accompanying the distribution of said seed.

(4) The seed labeling registrant may provide the information required in WAC 16-317-040 and ((RCW 15.49.320 of the Washington State Seed Act)) 16-318-205 through 16-318-230, and 16-318-040 through 16-318-065 as a guaranteed analysis at the time of distribution: PROVIDED, That the label, invoice, or other document accompanying the seed states "guaranteed analysis," and that the results of a purity and germination test of a representative sample are made available to the purchaser no later than thirty days following the initial distribution of the lot.

((5) Origin is not required for small grain, field pea, lentil, and/or soybean seed labeling.))

AMENDATORY SECTION (Amending Order 1699, filed 5/30/80)

WAC 16-317-060 SEED HELD IN STORAGE. Small grain, field pea, lentil, and/or soybean seed held for bulk distribution or invoice labeling, shall be plainly identified with information required in ((RCW 15.49.320 (1)(a), (b) and (c) of the Washington State Seed Act)) WAC 16-318-205 through 16-318-230, and 16-318-040 through 16-318-065, and for small grain, the information in WAC 16-317-040(1).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-317-090 LABELING LAWN AND PASTURE MIXTURES.

WSR 89-24-067
EMERGENCY RULES
DEPARTMENT OF ECOLOGY
[Filed December 6, 1989, 8:24 a.m.]

Date of Adoption: December 5, 1989.

Purpose: Amending WAC 173-18-090 Clallam County streams; and 173-18-200 Jefferson County streams.

Citation of Existing Rules Affected by this Order: Amending WAC 173-18-090 and 173-18-200.

Statutory Authority for Adoption: RCW 90.58.200.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Immediate classification of segments of the Bogachiel River as shorelines of state-wide significance is necessary to prevent potential resource loss during the course of the rule-making proceedings initiated under WSR 89-12-125 filed on November 22, 1989.

Effective Date of Rule: Immediately.

November 29, 1989

Fred Olson

Deputy Director

AMENDATORY SECTION (Amending Order DE 76-14, filed 5/3/76)WAC 173-18-090 CLALLAM COUNTY.
Streams

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(1) Big River	<u>Lake Pleasant 15</u>	From the confluence of Big River and unnamed creek (Sec.16,T31N,R14W) downstream to mouth on Lake Ozette (Sec.10,T30N, R15W).
(2) Bear Creek	<u>Forks 15</u>	From the confluence of Bear Creek and unnamed creek (Sec.24,T28N,R13W) downstream to mouth at Bogachiel River (Sec.35, T28N,R13W).
(3) Bear Creek	<u>Pysht 15</u>	From the Olympic National Forest boundary (Sec.25, T30N,R12W) downstream to mouth at Soleduck River (Sec.27, same township).
(4) Beaver Creek	<u>Lake Pleasant 15</u>	From the Olympic National Forest boundary (Sec.20, T30N,R12W) downstream to mouth at Soleduck River (Sec.30,T30N,R12W).
(5) Bockman Creek	<u>Lake Pleasant 15</u>	From the Olympic National Forest boundary (Sec.1, T29N,R13W) downstream to mouth at Soleduck River (same section).

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>	<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(6) Bogachiel River (Cont.)*	((Forks * 15 La Push 15) Reade Hill 7 1/2 Forks 7 1/2 Quillayute Prairie 7 1/2	From the Jefferson County line (Sec.35,T28N,R13W) downstream to mouth at Quillayute River (Sec.20, T28N,R14W). ((The 1,000 cfs MAF point begins at mouth of Bear Creek (Sec.35, T28N,R13W).)) The flow exceeds 1,000 cfs MAF at Jefferson County line.	(17) Dickey River (M. Fork)	<u>Lake Pleasant 15</u>	From the confluence of the Middle Fork Dickey River and unnamed creek (Sec.14, T30N,R14W) downstream to mouth at West Fork Dickey River (Sec.21, same township).
(7) Calawah River*	Forks * 15	From confluence of North and South Forks of Calawah River (Sec.35,T29N,R13W) downstream to mouth at Bogachiel River (Sec.13, T28N,R14W). The 1,000 cfs MAF point begins at confluence of North and South Forks.	(18) Deep Creek	<u>Pysht 15</u>	From the Olympic National Forest boundary (Sec.36, T31N,R11W) downstream to mouth at Strait of Juan de Fuca (Sec.20,T31N,R10W).
(8) Calawah River (S. Fork)	Forks 15	From the Olympic National Forest boundary (Sec.1, T28N,R13W) downstream to mouth at Calawah River (Sec.35,T29N,R13W).	(19) Dungeness River	<u>Tyler Peak 15</u> <u>Carlsborg 7 1/2</u> <u>Dungeness 7 1/2</u>	From the Olympic National Forest boundary (Sec.24, T29N,R4W) downstream to mouth at Dungeness Bay (Sec.25,T31N,R4W).
(9) Calawah River (N. Fork)	Pysht 15 Lake Pleasant 15 Forks 15	From the North section line (Sec.15, T29N,R11W) to mouth at Calawah River (Sec.35, T29N,R13W). Exclude federal lands.	(20) East Twin River	<u>Lake Crescent 15</u>	From the confluence of East Twin River and unnamed creek at Olympic National Forest boundary (Sec.36,T31N,R10W) downstream to mouth at Strait of Juan de Fuca (Sec.23, same township).
(10) Clallam River	<u>Lake Pleasant 15</u> Pysht 15 Clallam Bay 15	From the confluence of Clallam River and unnamed creek (Sec.12,T31N,R13W) downstream to mouth at Clallam Bay (Sec.20,T32N, R12W).	(21) Elk Creek	<u>Forks 15</u>	From a point approximately 1000' west of the Olympic National Forest boundary (Sec.12,T28N,R13W) downstream to mouth at Calawah River (Sec.3, same township).
(11) Colby Creek	La Push 15	From the intersection of private road and Colby Creek (Sec.8,T28N,R14W) downstream to mouth at Dickey River (Sec.6,T28N, R14W).	(22) Elwha River*	<u>Joyce * 15</u>	From the center of (Sec. 28,T30N,R7W) downstream to mouth at Freshwater Bay (Sec.27,T31N,R7W). The 1,000 cfs MAF point begins at center of (Sec.28,T30N, R7W).
(12) Coal Creek	La Push 15	From the confluence of Coal Creek and unnamed creek (Sec.1,T28N,R15W) downstream to mouth at Dickey River (Sec.12, same township).	(23) Herman Creek	<u>Lake Pleasant 15</u>	From the confluence of North Branch Herman Creek and Herman Creek (Sec.28, T31N,R13W) downstream to mouth at Hoko River (Sec. 30, same township).
(13) Crooked Creek	Ozette Lake 15	From the confluence of the North Fork and the South Fork (Sec.19,T30N,R14W) downstream to mouth at Ozette Lake (Sec.15,T30N, R15W).	(24) Hoko River	<u>Lake Pleasant 15</u> <u>Clallam Bay 15</u>	From the confluence of Hoko River and unnamed creek (Sec.16,T30N,R13W) downstream to mouth at Strait of Juan de Fuca (Sec.10,T32N,R13W).
(14) Dickey River	La Push 15	From the confluence of East and West Forks of Dickey River (Sec.30, T29N,R14W) downstream to Olympic National Park boundary (Sec.22,T28N,R15W).	(25) Indian Creek	<u>Joyce 15</u>	From the confluence of Indian Creek and unnamed creek (Sec.23,T30N,R8W) downstream to mouth at Lake Aldwell (Sec.28,T30N, R7W).
(15) Dickey River (W. Fork)	La Push 15 Ozette Lake 15	From the outlet of Lake Dickey (Sec.16,T30N, R14W) downstream to mouth at Dickey River (Sec.30,T29N,R14W).	(26) Little Hoko River	<u>Lake Pleasant 15</u> <u>Clallam Bay 15</u>	From the confluence of Little Hoko River and Lamb Creek (Sec.3,T31N, R13W) downstream to mouth at Hoko River (Sec.22,T32N, R13W).
(16) Dickey River (E. Fork)	<u>Lake Pleasant 15</u> Ozette Lake 15	From the confluence of the East Fork Dickey River and unnamed creek (Sec.19,T30N, R13W) downstream to mouth at Dickey River (Sec.30, T29N,R14W).	(27) Little River (S. Br.)	<u>Joyce 15</u>	From the Olympic National Forest boundary (Sec.25, T30N,R7W) downstream to mouth at Elwha River (Sec. 28, same township). Excluding federal lands.
			(28) Lyre River	<u>Lake Crescent 15</u>	From the Olympic National Forest boundary (Sec.10, T30N,R9W) downstream to mouth at Strait of Juan de Fuca (Sec.22,T31N,R9W).

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>	<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(29) Maxfield Creek	<u>Forks 15</u>	<i>From the confluence of Maxfield Creek and South Fork Maxfield Creek (Sec. 27, T28N, R14W) downstream to mouth at Bogachiel River (Sec. 28, same township).</i>	(41) Sekiu River	<u>Clallam Bay 15</u>	<i>From confluence of North and South Forks of Sekiu River (Sec. 15, T32N, R14W) downstream to mouth on Strait of Juan de Fuca (Sec. 8, T32N, R13W).</i>
(30) McDonald Creek	<u>Carlsborg 7 1/2</u> <u>Dungeness 7 1/2</u>	<i>From the confluence of McDonald Creek and unnamed creek (Sec. 6, T29N, R4W) downstream to mouth at Strait of Juan de Fuca (Sec. 5, T30N, R4W).</i>	(42) Shuwah Creek	<u>Lake Pleasant 15</u>	<i>From the confluence of Shuwah Creek and unnamed creek (NW 1/4 SW 1/4 of Sec. 15, T29N, R13W) downstream to mouth at Soleduck River (Sec. 22, same township).</i>
(31) Murphy Creek	<u>La Push 15</u>	<i>From the confluence of Murphy Creek and unnamed creek (Sec. 33, T28N, R14W) downstream to mouth at Bogachiel River (Sec. 29, same township).</i>	(43) Skunk Creek	<u>Lake Pleasant 15</u>	<i>From the confluence of Skunk Creek and unnamed creek (Sec. 29, T30N, R13W) downstream to mouth at the Dickey River (Sec. 31, T39N, R13W).</i>
(32) Pilchuck Creek	<u>Ozette Lake 15</u>	<i>From a point (SW 1/4 of NE 1/4 Sec. 33, T32N, R15W) downstream to mouth at Soes River (Sec. 28, same township).</i>	(44) Snag Creek	<u>Ozette Lake 15</u>	<i>From the confluence of Snag Creek and unnamed creek (Sec. 6, T31N, R14W) downstream to mouth at Soes River (Sec. 30, T32N, R14W).</i>
(33) Morse Creek	<u>Morse Creek 7 1/2</u>	<i>From Olympic National Park boundary (Sec. 8, T29N, R5W) downstream to mouth at Port Angeles Harbor (Sec. 5, T30N, R5W).</i>	(45) Soleduck River*	<u>Pysht 15</u> <u>Lake Pleasant* 15</u> <u>Forks 15</u> <u>La Push 15</u>	<i>From the Olympic National Forest boundary (Sec. 35, T30N, R10W) downstream to mouth at Quillayute River (Sec. 20, T28N, R14W). The 1,000 cfs MAF point begins at mouth of Bockman Creek (Sec. 1, T29N, R13W). Excludes federal lands.</i>
(34) Ponds Creek	<u>Lake Pleasant 15</u>	<i>From the confluence of Ponds Creek and unnamed creek on the south section line (Sec. 34, T31N, R14W) downstream to mouth at Dickey Lake (Sec. 9, T30N, R14W).</i>	(46) Sooes River	<u>Ozette Lake 15</u> <u>Cape Flattery 15</u>	<i>From the confluence of Snag Creek and Sooes River (Sec. 30, T32N, R14W) downstream to Indian Reservation boundary (Sec. 16, T32N, R15W).</i>
(35) Pysht River	<u>Pysht 15</u>	<i>From the Olympic National Forest boundary (Sec. 34, T31N, R12W) downstream to mouth at Strait of Juan de Fuca near Pysht (Sec. 9, T31N, R11W).</i>	(47) Thunder Creek	<u>Lake Pleasant 15</u>	<i>From the confluence of Thunder Creek and unnamed creek (Sec. 11, T29N, R14W) downstream to mouth at East Fork Dickey River (Sec. 23, same township).</i>
(36) Pysht River (S. Fk.)	<u>Pysht 15</u>	<i>From the confluence of the South Fork Pysht River and Middle Creek (Sec. 28, T31N, R11W) downstream to mouth at Pysht River (Sec. 13, T31N, R12W).</i>	(48) Umbrella Creek	<u>Ozette Lake 15</u>	<i>From the confluence of Umbrella Creek and unnamed creek (Sec. 23, T31N, R15W) downstream to mouth at Umbrella Point on Lake Ozette (Sec. 4, T30N, R15W).</i>
(37) Quillayute River*	<u>La Push * 15</u>	<i>From confluence of Soleduck and Bogachiel rivers (Sec. 20, T28N, R14W) downstream to Olympic National Park boundary (Sec. 24, T28N, R15W). The 1,000 cfs MAF point begins at confluence of Soleduck River and Bogachiel River.</i>	(49) West Twin River	<u>Lake Crescent 15</u>	<i>From the Olympic National Forest boundary (Sec. 34, T31N, R10W) downstream to mouth at Strait of Juan de Fuca (Sec. 23, T31N, R10W).</i>
(38) Salt Creek	<u>Joyce 15</u>	<i>From the confluence of Salt Creek and unnamed creek (SE 1/4, SE 1/4 of Sec. 34, T31N, R8W) downstream to mouth at Crescent Bay on Strait of Juan de Fuca (Sec. 21, same township).</i>	AMENDATORY SECTION (Amending Order DE 76-14, filed 5/3/76)		
(39) Sekiu River (S. Fk.)	<u>Lake Pleasant 15</u>	<i>From the confluence of the South Fork Sekiu River and unnamed creek (Sec. 26, T32N, R14W) downstream to mouth at Sekiu River (Sec. 15, same township).</i>	WAC 173-18-200 JEFFERSON COUNTY. Streams		
(40) Sekiu River (N. Fk.)	<u>Cape Flattery 15</u>	<i>From the confluence of North Fork Sekiu River and unnamed creek (Sec. 7, T32N, R14W) downstream to mouth at Sekiu River (Sec. 15, same township).</i>	<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
			(1) Big Quilcene River	<u>Mt. Walker 7 1/2</u> <u>Quilcene 7 1/2</u>	<i>From the Olympic National Forest boundary (Sec. 27, T27N, R2W) downstream to mouth at Quilcene Bay (Sec. 19, T27N, R1W).</i>

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>	<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(2) <u>Bogachiel River*</u>	<u>((Spruce Mt. 15 Forks 15))</u> <u>Indian Pass* 7 1/2</u> <u>Anderson Creek 7 1/2</u> <u>Reade Hill 7 1/2</u>	<i>From the Olympic National Forest boundary (Sec.4, T27N,R12W) downstream to the Clallam County line (Sec.2, T27N,R13W). The flow exceeds 1,000 cfs MAF at Olympic National Park boundary.</i>	(12) <u>Hoh River (S. Fk.)</u>	<u>Mt. Tom 15</u>	<i>From the Olympic National Park boundary (Sec.2, T26N, R10W) downstream to the Olympic National Forest boundary (Sec.29, T27N, R10W).</i>
(3) <u>Cedar Creek</u>	<u>Destruction Island 15</u>	<i>From the confluence of Cedar Creek and the South Fork of Cedar Creek (Sec. 34, T26N,R13W) downstream to the Olympic National Park boundary (Sec.33, T26N,R13W).</i>	(13) <u>Hurst Creek</u>	<u>Destruction Island 15</u>	<i>From an approximate point near the north line of (SE1/4 of NW1/4 of NE1/4 of Sec.17, T24N,R12W) downstream to mouth at the Clearwater River (Sec.19, T24N,R12W).</i>
(4) <u>Chimacum Creek</u>	<u>Port Townsend S. 7 1/2</u>	<i>From the confluence of Chimacum Creek and unnamed creek in Chimacum Valley (Sec.11, T29N,R1W) downstream to mouth at Bay of Port Townsend (Sec. 35, T30N,R1W) near Irondale.</i>	(14) <u>Kalaloch Creek</u>	<u>Destruction Island 15</u>	<i>From the confluence of Kalaloch Creek and West Fork Kalaloch Creek (Sec.17, T25N,R13W) downstream to the Olympic National Park boundary (Sec.3, T24N, R13W).</i>
(5) <u>Christmas Creek</u>	<u>Salmon River 15</u>	<i>From an approximate point near the center of (NE1/4 of Sec.2, T25N,R12W) downstream to mouth at Clearwater River (Sec.22, T25N,R12W).</i>	(15) <u>Little Quilcene River</u>	<u>Mt. Walker 7 1/2 Quilcene 7 1/2</u>	<i>From the Olympic National Forest boundary (Sec.33, T28N,R2W) downstream to mouth at Quilcene Bay (Sec.18, T27N,R1W).</i>
(6) <u>Clearwater River*</u>	<u>Klochmon Rock 15</u> <u>Salmon River* 15</u> <u>Destruction Island 15</u>	<i>From the confluence of Clearwater River and unnamed creek (Sec.25, T26N,R10W) downstream (excluding federal lands) to Quinault Indian Reservation (Sec.29,T24N,R12W). The 1,000 cfs MAF point begins at mouth of Miller Creek (Sec.27,T25N,R12W).</i>	(16) <u>Maple Creek</u>	<u>Spruce Mt. 15</u>	<i>From the confluence of Maple Creek and Dry Creek (Sec.3,T26N,R11W) downstream to Hoh River (Sec.35, T27N,R11W).</i>
(7) <u>Dosewallips River</u>	<u>Brinnon 7 1/2</u>	<i>From the Olympic National Forest boundary between (Sec.25,T26N,R3W) and (Sec.30,T26N,R2W) downstream to mouth at Dabob Bay near Brinnon (Sec.2,T25N,R2W).</i>	(17) <u>Matheny Creek</u>	<u>Salmon River 15</u>	<i>From the Olympic National Forest boundary (Sec.24, T24N,R11W) downstream to the Olympic National Park boundary (Sec.22, T24N, R11W).</i>
(8) <u>Duckabush River</u>	<u>Brinnon 7 1/2</u>	<i>From the Olympic National Forest boundary between (Sec.17 & 18,T25N,R2W) downstream to mouth at Hood Canal (Sec.21,T25N, R2W).</i>	(18) <u>Miller Creek</u>	<u>Destruction Island 15</u> <u>Salmon River 15</u>	<i>From the confluence of Miller Creek and unnamed creek (Sec.17,T25N,R12W) downstream to mouth at Clearwater River (Sec.27, T25N,R12W).</i>
(9) <u>Fulton Creek</u>	<u>Brinnon 7 1/2</u> <u>Holly 7 1/2</u>	<i>From the confluence of Fulton Creek and the South Fork of Fulton Creek (Sec. 30,T25N,R2W) downstream to mouth at Hood Canal (Sec.31,T25N,R2W).</i>	(19) <u>Miller Creek (E. Fk.)</u>	<u>Salmon River 15</u>	<i>From the confluence of the East Fork Miller Creek and unnamed creek (Sec. 15,T25N,R12W) downstream to mouth at Miller Creek (Sec.27,T25N,R12W).</i>
(10) <u>Goodman Creek</u>	<u>Forks 15</u> <u>LaPush 15</u>	<i>From the confluence of Goodman Creek and unnamed creek (Sec.23,T27N,R13W) downstream to Olympic National Park boundary (Sec.23,T27N,R14W).</i>	(20) <u>Minter Creek</u>	<u>Forks 15</u>	<i>From the intersection of the north line of (Sec.30, T27N,R13W) and Minter Creek, downstream to Goodman Creek (Sec.24, T27N,R14W).</i>
(11) <u>Hoh River*</u>	<u>Spruce Mt. * 15</u> <u>Forks 15</u> <u>Destruction Island 15</u>	<i>From the Olympic National Park boundary (Sec.29, T27N,R10W) downstream to Hoh Indian Reservation boundary (Sec.20,T26N, R13W). The 1,000 cfs MAF point starts at the Olympic National Park boundary.</i>	(21) <u>Mosquito Creek</u>	<u>Forks 15</u>	<i>From the intersection of north line of (Sec.5, T26N,R13W) and Mosquito Creek, downstream to Olympic National Park boundary (Sec.36,T27N, R14W).</i>
			(22) <u>Nolan Creek</u>	<u>Destruction Island 15</u> <u>Forks 15</u>	<i>From an approximate point on the north line of (NE1/4 of SW1/4 of Sec.21,T26N, R12W) downstream to mouth at Hoh River (Sec.23,T26N, R13W).</i>
			(23) <u>Owl Creek</u>	<u>Spruce Mt. 15</u>	<i>From an approximate point near the center of the north line of (SW1/4 of NE1/4 of Sec.8,T26N,R10W) downstream to mouth at Hoh River (Sec.35,T27N,R11W).</i>

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(24) <i>Salmon River</i>	<u>Salmon River 15</u>	<i>From the Olympic National Forest boundary (Sec.36, T24N,R11W) downstream back to said boundary (Sec.35) coming out of Indian Reservation (Sec.36,T24N, R12W) returning to Indian Reservation and coming out again (Sec.35,T24N,R12W) downstream to Olympic National Forest boundary (same section).</i>
(25) <i>Shale Creek</i>	<u>Salmon River 15</u> <i>Destruction Island 15</i>	<i>From an approximate point near the NE corner of the (SE1/4 of SW1/4 of Sec.26, T25N,R12W) downstream to mouth at Clearwater River (Sec.28,T25N,R12W).</i>
(26) <i>Snahapish River</i>	<u>Salmon River 15</u>	<i>From the intersection of Snahapish River and unimproved road (Sec.21, T26N,R11W) downstream to mouth at Clearwater River (Sec.19,T25N,R11W).</i>
(27) <i>Snow Creek</i>	<u>Uncas 7 1/2</u>	<i>From the confluence of Snow Creek and unnamed creek from Crocker Lake (Sec.2,T28N,R2W) downstream to mouth at Part Discovery (Sec.24, T29N,R2W).</i>
(28) <i>Solleks River</i>	<u>Kloochman Rock 15</u> <u>Salmon River 15</u>	<i>From the confluence of Solleks River and unnamed creek (Sec.2,T25N,R10W) downstream to mouth at Clearwater River (Sec.10, T25N,R11W).</i>
(29) <i>Stequa-leho Creek</i>	<u>Salmon River 15</u>	<i>From the confluence of the Stequa-leho Creek and unnamed creek (Sec.19, T25N,R10W) downstream to mouth at Clearwater River (Sec.16,T25N,R11W).</i>
(30) <i>Winfield Creek</i>	<u>Spruce Mt. 15</u>	<i>From the confluence of Winfield Creek and unnamed creek (Sec.1,T26N,R12W) downstream to mouth at the Hoh River (Sec.27,T27N, R12W).</i>
(31) <i>Quinault River*</i>	<u>Mt. Christie * 15</u> <u>Kloochman Rock 15</u>	<i>From east section line (Sec.33,T24N,R8W) downstream to Jefferson/Grays Harbor County line (Sec.1,T23N, R9W). Exclude federal land. The flow is over 1000 cfs MAF at east section line (Sec.33, T24N,R8W).</i>

WSR 89-24-068
PROPOSED RULES
HORSE RACING COMMISSION
[Filed December 6, 1989, 8:25 a.m.]

Original Notice.

Title of Rule: Daily triple.

Purpose: To set out rules and regulations regarding a new wager proposed to the state of Washington in which the bettors are permitted to select the winners of three successive races on one wager.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: This rule, while providing a new wager for Washington bettors, also repeals a wager (Pick 6) which proved unsuccessful.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Crowley, Executive Secretary, Olympia, Washington, 753-3741.

Name of Proponent: Washington Horse Racing Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule is to amend WAC 260-48-327 Daily triple, to allow operation of a daily triple pool on any race when there is an entry or mutual field.

Proposal Changes the Following Existing Rules: This rule allows the operation of a daily triple pool on any race when there is an entry or mutual field.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The enactments listed above are not anticipated to affect more than 20 percent of all industries nor more than 10 percent of any one industry as defined by section 2(3), chapter 6, Laws of 1982. Therefore, a small business economic impact statement has not been prepared.

Hearing Location: Radisson Hotel, 17001 Pacific Highway South, Seattle, WA 98112, on January 9, 1990, at 1:00 p.m.

Submit Written Comments to: John Crowley, Executive Secretary, Washington Horse Racing Commission, Olympia, Washington 98504, by January 9, 1990.

Date of Intended Adoption: January 9, 1990.

December 6, 1989

John Crowley

Executive Secretary

AMENDATORY SECTION (Amending Order 89-04, filed 6/9/89)

WAC 260-48-327 DAILY TRIPLE. (1) The Daily Triple parimutuel pool is not a parlay and has no connection with or relation to any other parimutuel pool conducted by the association, nor to any win, place, and show pool shown on the totalisator board, nor to the rules governing the distribution of such other pools.

(2) A valid Daily Triple ticket shall be evidence of the binding contract between the holder of the ticket and the racing association, and the said ticket shall constitute an acceptance of Daily Triple provisions and rules contained in the rules and regulations of the Washington horse racing commission.

(3) A Daily Triple may be given a distinctive name to be selected by the association conducting such races, such as "PICK 3," subject to prior approval of the commission.

(4) The Daily Triple parimutuel pool consists of amounts contributed for a selection for win only in each of three consecutive races designated by the association with the prior approval of the commission. Each person purchasing a Daily Triple ticket shall designate the winning horse in each of the three races comprising the Daily Triple.

(5) ((No Daily Triple pool shall be operated on any race when there is an entry or mutual field:))

((7))) The net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of tickets which correctly designate the winners in all three races comprising the Daily Triple.

((7))) (6) If no ticket is sold combining the three winners of the Daily Triple, the net amount in the parimutuel pool shall be distributed among the holders of tickets which include the winners of at least two of the three races comprising the Daily Triple.

((8))) (7) If no ticket is sold combining at least two winners of the Daily Triple, the net amount in the parimutuel pool shall be distributed among holders of tickets which include the winner of any race comprising the Daily Triple.

((9)) (8) If no ticket is sold that would require distribution of the Daily Triple pool to a winner under this section, the association shall make a complete and full refund of the Daily Triple pool.

((10)) (9) If for any reason one of the races comprising the Daily Triple is cancelled, the net amount of the parimutuel pool shall be distributed as provided in subsections ((6), (7), and (8)) (5), (6), and (7) of this section.

((11)) (10) If for any reason two or more of the races comprising the Daily Triple are cancelled, a full and complete refund will be made of the Daily Triple pool.

((12)) (11) In the event a Daily Triple ticket designated a selection in any one or more of the races comprising the Daily Triple and that selection is scratched, excused, or determined by the stewards to be a nonstarter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payoffs.

((13)) (12) In the event of a dead heat for win between two or more horses in any Daily Triple race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

((14)) (13) No parimutuel ticket for the Daily Triple pool shall be sold, exchanged, or cancelled after the time of the closing of wagering in the first of the three races comprising the Daily Triple, except for such refunds on Daily Triple tickets as required by this section, and no person shall disclose the number of tickets sold in the Daily Triple pool or the number or amount of tickets selecting winners of Daily Triple races until such time as the stewards have determined the last race comprising the Daily Triple to be official. At the conclusion of the second of the three races comprising the Daily Triple, an association may, with the prior approval of the commission, display potential distributions to ticket holders depending upon the outcome of the third race of the Daily Triple.

WSR 89-24-069

COLUMBIA RIVER GORGE COMMISSION

[Filed December 6, 1989, 8:51 a.m.]

Reviser's note: The following material has not been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

Agency: Columbia River Gorge Commission.

The above named agency gives notice of hearing.

Hearings to be Held: January 9, 1990, 9:30 a.m., Clark County, PUD, 89 C Street, Washougal, WA 98671.

Hearings Officer(s): Stafford Hansell, Chairman.

Pursuant to the statutory authority of RCW 493.97.015 [43.97.015] to 493.97.035 [43.97.035] or chapter 499, Washington Laws of 1987, the following action is proposed: Amending chapters 350-16 and 350-20.

No Prior Notice Given.

Summary: The amendments increase opportunity for public involvement in rulemaking and require additional agency record keeping. The amendments also require greater care in recording ex parte contacts in adjudicative proceedings and streamline the Commission's application process.

Statement of Need: The proposed amendments respond to changes in the Washington Administrative Procedure Act. The National Scenic Area Act requires the commission to follow the procedures of the stricter Washington or Oregon laws. Amendments to chapter 350-20 streamline the commission's development application process to respond to a need for efficient processing of applications and appeals.

Statement of Fiscal Impact: The proposed amendments to chapter 350-16 will increase the commission's operating costs in a minor way but will have no effect on the general public. The proposed amendments to chapter 350-20 will reduce both the commission's operating costs and costs to users of the development review process by reducing paperwork burdens and delays.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by January 5, 1990, will also be considered. Written comments should be sent to and copies of the proposed rulemaking may be obtained from: Columbia River

Gorge Commission, 288 East Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672, Jan Brending, Rules Coordinator, (509) 493-3323.

Jan Brending
December 4, 1989

COLUMBIA RIVER GORGE COMMISSION

PROPOSED RULE AMENDMENTS 350-16

350-16-004. Notice Requirements for Rule Adoption

(1) Prior to the adoption, amendment or repeal of any rule, the commission shall give notice of its intended action:

(a) In the manner established by rule adopted by the commission, which provides a reasonable opportunity for interested person to be notified of the agency's proposed action;

(b) In the Oregon bulletin and Washington register at least 20 days prior to the commencement of any commission action; and

(c) No later than three days after publication in the register and bulletin, to persons who have requested notice pursuant to subsection (7) of this section.

(2)(a) The notice required by subsection (1) of this section shall state the subject matter and purpose of the intended action in sufficient detail to inform a person that the person's interests may be affected, and the time, place and manner in which interested persons may present their views on the intended action.

(b) The commission shall include with the notice of intended action given under subsection (1) of this section:

(A) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

(B) A statement of the need for the rule and a statement of how the rule is intended to meet the need;

(C) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the commission in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection. The list may be abbreviated if necessary, and if so abbreviated there shall be identified the location of a complete list; [and]

(D) A statement of fiscal impact identifying state agencies, units of local government and the public which may be economically affected by the adoption, amendment or repeal of the rule and an estimate of that economic impact on state agencies, units of local government and the public. In considering the economic effect of the proposed action on the public, the agency shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance effect on small businesses affected.

(E) A statement of the anticipated effects of the proposed rule;

(F) a statement whether the rule is necessary as a result of federal law or a court decision;

(G) An indication of the person or persons proposing the rule;

(H) The date on which the commission intends to adopt the rule; and

(I) The commission personnel responsible for implementation and enforcement of the rule, with office location and telephone number.

(3) When the commission proposes to adopt, amend or repeal a rule, it shall give interested persons reasonable opportunity to submit data or views at a public hearing. [Opportunity for oral hearing shall be granted upon request received from ten persons within 15 days after commission notice. The commission holding a hearing upon request made under this subsection is not required to give additional notice of the hearing in the Oregon bulletin or Washington register if the commission gives notice in compliance with its rules of practice and procedure other than a requirement that notice be given in the bulletin.] The commission shall consider fully any written or oral submission.

(4) Upon request of an interested person received within 15 days after commission notice pursuant to subsection (1) of this section, the commission shall postpone the date of its intended action no less than 10 nor more than 90 days in order to allow the requesting person an opportunity to submit data, views or arguments concerning the proposed action. Nothing in this subsection shall preclude the commission from adopting a temporary rule pursuant to subsection (5) of this section.

(5) Notwithstanding subsections (1) to (4) of this section, the commission may adopt or amend a rule without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, if the commission prepares:

(a) A statement of its findings that its failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned and the specific reasons for its findings of prejudice;

(b) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

(c) A statement of the need for the rule and a statement of how the rule is intended to meet the need; and

(d) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the commission in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection.

(6) A rule adopted or amended under subsection (5) of this section is temporary and may be effective for a period of not longer than 90 days. The adoption of a rule under this subsection does not preclude the subsequent adoption of an identical rule under subsections (1) to (4) of this section.

(7) Any person may request in writing that the commission mail to the person copies of its notice of intended action given pursuant to subsection (1) of this section. Upon receipt of any request the commission shall acknowledge the request, establish a mailing list and maintain a record of all mailings made pursuant to the request. The commission may establish procedures for establishing and maintaining the mailing lists current and, by rule, establish fees necessary to defray the costs of mailings and maintenance of the lists.

(8) This section does not apply to public contracts and purchasing.

(9) No rule is valid unless adopted in substantial compliance with the provisions of this section in effect on the date the rule is adopted.

(10) Unless otherwise provided by statute, the adoption, amendment or repeal of a rule by an agency need not be based upon or supported by an evidentiary record.

350-16-005. Procedure for Commission Adoption of Federal Rules.

(1) Notwithstanding 350-16-004, when the commission is required to adopt rules or regulations promulgated by an agency of the Federal Government and the agency has no authority to alter or amend the content or language of those rules or regulations prior to their adoption, the agency may adopt those rules or regulations under the procedure prescribed in this section.

(2) Prior to the adoption of a federal rule or regulation under subsection (1) of this section, the commission shall give notice of the adoption of the rule or regulation, the effective date of the rule or regulation and the subject matter of the rule or regulation in the manner established in 350-16-004(1).

(3) After giving notice the commission may add to the rule or regulation by filing a copy with the Oregon Secretary of State and the Washington Code Reviser. The commission is not required to conduct public hearings concerning the adopting of the rule or regulation.

(4) Nothing in this section authorizes the commission to amend federal rules or regulations or adopt rules in accordance with federal requirements without giving an opportunity for hearings as required by 350-16-004.] Delete 350-16-005 in its entirety.

350-16-006[6]5. Filing and Taking Effect of Rules.

(1)(a) The commission shall file in the office of the Oregon Secretary of State and Washington Code Reviser a certified copy of each rule adopted by it.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, the commission adopting a rule incorporating published standards of reference is not required to file a copy of those standards with the Oregon Secretary of State or the Washington Code Reviser if:

(A) The standards adopted are unusually voluminous and costly to reproduce; and

(B) The rule identifies the location of the standards to be incorporated and the conditions of their availability to the public.

(2) Each rule is effective upon the expiration of 30 days after the date of filing as required by subsection (1) of this section, except that:

(a) If a later effective date is required by constitution, statute or court order [specified in the rule], the later date is the effective date.

(b) If a different effective date is specified in the rule and the commission finds that action is necessary because of imminent peril to public health, safety or welfare, the specified date is the effective date.

(b) (c) A temporary rule becomes effective upon filing with the Oregon Secretary of State and Washington Code Reviser, or at a designated later date, only if the statement required by 350-16-004(5) is filed with the rule. The commission shall take appropriate measures to

make temporary rules known to the persons who may be affected by them.

(3) When a rule is amended or repealed by the commission, the commission shall file a certified copy of the amendment or notice of repeal with the Oregon Secretary of State and Washington Code Reviser.

(4) No rule of which a certified copy is required to be filed shall be valid or effective against any person or party until a certified copy is filed in accordance with this section. However, if the commission, in disposing of a contested case, announces in its decision the adoption of a general policy applicable to such case and subsequent cases of like nature the commission may rely upon such decision in disposition of later cases.

350-16-00[8]7. Petitions Requesting Adoption of Rules.

An interested person may petition the commission requesting the promulgation, amendment or repeal of a rule. The commission shall prescribe by rule the form for such petitions and the procedure for their submission, consideration and disposition. Not later than 30 days after the date of submission of a petition, the commission shall deny the petition in writing or shall initiate the rulemaking proceedings. If the commission denies the petition it shall set forth in writing its reasons for doing so.

350-16-00[9]8. Notice to Party Before Hearing of Rights and Procedure

350-16-0[10]9. Notice, hearing and record in contested cases in contested cases.

(1) In a contested case hearing, all parties shall be afforded an opportunity for hearing after notice of not less than 20 days, served personally or by registered or certified mail.

(2) The notice shall include:

(a) A statement of the party's right to hearing, or a statement of the time and place of the hearing;

(b) A statement of the authority and jurisdiction under which the hearing is to be held;

(c) A reference to the particular sections of the statutes and rules involved; and

(d) A short and plain statement of the matters asserted or charged.

(3) Parties may elect to be represented by counsel and to respond and present evidence and argument on all issues involved.

(4) The commission may adopt rules of procedure governing participation in contested cases by person appearing as limited parties.

(5) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.

(6) An order adverse to a party may be issued upon default only upon prima facie case made on the record of the commission. When an order is effective only if a request for hearing is not made by the party, the record may be made at the time of issuance of the order, and if the order is based only on material included in the application or other submissions of the party, the commission may so certify and so notify the party, and such material shall constitute the evidentiary record of the proceeding if hearing is not requested. The commission shall serve a default order upon the defaulted party or the party's attorney, if any.

(7) Within seven days after service of a default order under subsection (6) of this section, the party against whom it was entered may file a written motion requesting that the order be vacated, and stating the grounds relied upon. During the time within which a party may file a written motion under this subsection, the presiding officer may adjourn the proceedings or conduct them without the participation of that party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings. At the commencement of the hearing, the officer presiding shall explain the issues involved in the hearing and the matters that the parties must either prove or disprove.

(8) Testimony shall be taken upon oath or affirmation of the witness form when received. The officer presiding at the hearing shall administer oaths or affirmatives to witnesses.

(9) [The office presiding at the hearing shall place on the record a statement of the substance of any written or oral ex parte communications on a fact in issue made to the office during the pendency of the proceeding and notify the parties of the communication and of their right to rebut such communications.] A presiding officer who receives an ex parte communication during the pendency of a proceeding shall

place on the record of the proceeding all written communications received, all written responses to the communications and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the presiding officer received an ex parte communication. The presiding officer shall advise all parties that these matters have been placed on the record. Upon request made within ten days after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a written rebuttal statement on the record.

(10) The officer presiding at the hearing shall insure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the presiding officer in the case.

(11) The record in a contested case shall include:

(a) all pleadings, motions and intermediate rulings.

(b) Evidence received or considered.

(c) Stipulations.

(d) A statement of matters officially noticed.

(e) Questions and offers of proof, objections and rulings thereon.

(f) A statement of any ex parte communications on a fact in issue made to the officer presiding at the hearing.

(g) Proposed findings and exceptions.

(h) Any proposed, intermediate or final order prepared by the commission or a hearings officer.

(12) A verbatim oral, written or mechanical record shall be made of all motions, rulings and testimony. The record need not be transcribed unless requested for purposes of rehearing or court review. The commission may charge the party requesting transcription, unless the party files an appropriate affidavit of indigency.

350-16-010. Presiding Officer – Disqualification, Substitution.

(1) Any party may petition for the disqualification of an individual promptly after receipt of notice indicating that the individual will preside or, if later, promptly upon discovering facts establishing grounds for disqualification.

(2) The individual whose disqualification is requested shall determine whether to grant the petition, stating facts and reasons for the determination.

(3) If a substitute is required for an individual who becomes unavailable as a result of disqualification or any other reason, the substitute must be appointed by the commission.

350-16-012. Depositions or Subpoena of Material Witness; Discovery.

(1) On petition of any party to a contested case, the commission may order that the testimony of any material witness may be taken by deposition in the manner prescribed by law for depositions in civil actions. The petition shall set forth the name and address of the witness whose testimony is desired, a showing of the materiality of the testimony of the witness, and a request for an order that the testimony of such witness be taken before an officer named in the petition for that purpose. If the witness resides in Oregon or Washington and is unwilling to appear, the commission may issue a subpoena, requiring his appearance.

(2) [The commission may, by rule, prescribe other methods of discovery which may be used in proceedings before the commission.] On petition of any party to a contested case the commission may order that the party be allowed an opportunity to visit the property that is the subject of a hearing before the commission. The petition shall set forth the name, address and telephone number of the person or persons who will visit the property and a showing of the materiality of the evidence to be obtained from the visit. The applicant, the owner of the property or a representative shall be entitled to a company the petitioning party while on the property and shall be given access to any written report or notes from the site visit prepared for the petitioning party that is not subject to protection under the attorney-client privilege.

(3) The commission may allow petitions to take depositions, for subpoenas, admissions or other forms of discovery prescribed by law in civil actions upon a showing of necessity and unavailability by other means. In determining whether to allow the discovery the commission shall consider:

(a) Whether all parties are represented by counsel;

(b) Whether undue expense or delay in bringing the matter to hearing will result;

(c) Whether the discovery will promote the orderly and prompt conduct of the proceeding; and

(d) Whether the interests of justice will be promoted.

350-16-014. Evidence in Contested Cases.

[In contested cases:]

(1) Irrelevant, immaterial or unduly repetitious evidence shall be excluded but erroneous rulings on evidence shall not preclude commission action on the record unless shown to have substantially prejudiced the rights of a party. All other evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs shall be admissible. The commission shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Any part of the evidence may be received in written form.

(2) All evidence shall be offered and made a part of the record in the case, and except for matters stipulated to and except as provided in subsection (4) of this section no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.

(3) Every party shall have the right of cross examination of witnesses who testify and shall have the right to submit rebuttal evidence. Persons appearing in a limited party status shall participate in the manner and to the extent prescribed by rule of the commission.

(4) The commission may take notice of judicially cognizable facts, and [they] may take official notice of general, technical or scientific facts within its specialized knowledge. Parties shall be notified at any time during the proceeding but in any event prior to the final decision of material officially noticed and the sources of the materials and they shall be afforded an opportunity to contest the facts so noticed. The commission may utilize its experience, technical competence and specialized knowledge in the evaluation of the evidence presented to it.

(5) No sanction shall be imposed or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party, and as supported by, and in accordance with, reliable, probative and substantial evidence.

(6) The commission may, at its discretion, be represented at the hearings by the Attorney General of Washington or Oregon.

350-16-016. Commission Statement of Ex Parte Communications; Notice.

[The commission shall place on the record a statement of the substance of any written or oral ex parte communications on a fact in issue made to the commission during its review of a contested case. The commission shall notify all parties of such communications and of their right to rebut the substance of the ex parte communications on the record.] Any commissioner who receives an ex parte communication during the pendency of a proceeding shall place on the record of the proceeding all written communications received, all written responses to the communications and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the commissioner received an ex parte communication. The commissioner shall advise all parties that these matters have been placed on the record. Upon request made within ten days after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a written rebuttal statement on the record.

350-16-018. Orders in Contested Cases.

[In a contested case:]

(1) Every order adverse to a party to the proceeding shall be in writing or stated in the record and may be accompanied by an opinion.

(2) A final order shall be accompanied by findings of fact and conclusions of law, and the reasons and basis therefore, on all the material issues of fact, law, or discretion presented on the record, including the remedy or sanction. Any findings based substantially upon credibility of evidence or demeanor of witnesses shall be so identified. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of facts and as to each ultimate fact required to support the commission's order.

(3) The commission shall serve in writing any final order within 90 days after the hearing or after the submission of any additional memoranda, briefs or proposed findings. The commission shall notify the parties to a proceeding of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to each party or, if applicable, the party's attorney of record.

(4) Every final order shall include a citation of the statutes under which the order may be appealed.

350-16-020. Commission Record of Contested Case.

(1) The commission shall maintain an official record of each contested case.

(2) The commission record shall include:

- (a) Notices of proceedings;
- (b) Any prehearing order;
- (c) Any motions, pleadings, briefs, petitions, request and intermediate rulings;
- (d) Evidence received or considered;
- (e) A statement of any matters officially noticed;
- (f) Proffers of proof and objections and rulings thereon;
- (g) Proposed findings, requested orders and exceptions;

(h) The recording prepared for the commission at the hearing, together with any transcript of all or part of the hearing considered before final disposition of the proceeding;

- (i) Any final order, initial order or order on reconsideration;
- (j) Staff memoranda or data submitted to the commission; and
- (k) Matters placed on the record after an ex parte communication.

350-16-022. Service of Process

A petition for judicial review of a final order in a contested case shall be served upon the commission by delivery of a copy of the petition to the office of the executive director or chairperson of the commission at the principal office of the commission.

350-16-024. Commission Record for Review.

(1) Within thirty days after service of a petition for judicial review, or within further time allowed by the court, the commission shall transmit to the court the original or a certified copy of the commission record specified in 350-16-020.

(2) The commission may charge a nonindigent petitioner with the reasonable costs of preparing any necessary copies and transcripts for transmittal to the court. A failure by the petitioner to pay this cost to the commission relieves the commission from the responsibility for preparation of the record and transmittal to the court.

350-20-005. Application for Review and Approval.

(1) Review of a major development action or new residential development shall commence upon the acceptance of an application by the Director.

(2) Applications for the review and approval of major development actions and new residential development shall provide the following information:

- (a) The applicant's name, address and telephone number;
- (b) The land owner's name, address and telephone number (if different from applicant's);
- (c) The county in which the proposed development would be located;
- (d) The section, quarter section, township and range in which the proposed development would be located;
- (e) The street address of the proposed development;
- (f) The tax lot number(s) and size in acres of the parcel(s) involved;
- (g) A description of the current land use for the parcel(s) involved and adjoining lands;

(h) A narrative description in sufficient detail to clearly explain the major aspects and the features of the proposed development;

(i) A site plan drawn in black ink, either on the application form or on a separate sheet. The site plan must include:

scale and north arrow; boundaries of the parcel(s) involved; the location and width of all existing and proposed streets and roads; location and size of any existing and proposed structures; outside lighting; significant topographic features such as rock outcrops, swales, cliff or bluff lines; type and approximate location and height of trees 6" dbh (diameter at breast height) within 100 feet of proposed structures, roads, excavations or storage areas; trees 6" dbh (diameter at breast height) to remain on site after completion of development and other post-construction landscaping; boundary and depth of all grading and excavation to be done for road construction, building site preparation or landscaping purposes; location of water courses and bodies of water, including existing drainage patterns and proposed modifications to drainage patterns;

location of source of water supply; for surface mining applications, the boundaries of the area to be mined, the depth of excavations and the proposed final site contours.

If the information required above is included on a site plan required for county or city permit approval, then the county or city site plan may be submitted in lieu of the above plan.

(j) A listing of major travel routes, scenic viewpoints, and public park and recreational facilities from which the proposed development would be visible;

(k) A description of the height, exterior color(s) and roofing and siding materials for all proposed structures;

(l) A description of any historic, archaeologic, or cultural features on or adjacent to the development site;

(m) A description of how the proposed development would affect existing recreational uses or create new recreational opportunities;

(n) A description of how the proposed development action would affect air quality, water quality and quantity, fish and wildlife, soils, threatened or endangered plants or animals, native plants, and forest and agricultural lands; and

(o) Any additional information which the applicant feels will assist in the evaluation of the proposal including, but not limited to, maps, drawings, and development plans.

(p) The signature of the property owner or, if the applicant is other than the property owner, a signed statement by the property owner that he or she is aware that the application is being filed or a copy of the purchase agreement with the applicant;

(q) The signature of the applicant to a statement that authorizes the Director or the Director's designee to visit the site in order to prepare a report on the application.

(3) Standard application forms shall be available at county and city planning offices, the office of the Columbia River Gorge Commission and the Forest Service.

350-20-007. Submission of Applications.

Completed application forms shall be submitted directly to the office of the Columbia River Gorge Commission. Applications shall be accompanied by [copies of any pertinent applications required for a county or city permit or approval] a statement from the applicable county or city planning department either that no approval or permit is required or that the applicant has been informed that approval or a permit is required. [Applications for county or city permits or approvals shall have been deemed as complete or accepted for processing by the county or the city. If no county or city permit or approval is required, the application shall be accompanied by a statement from the applicable county or city stating that no permit or approval is required.]

350-20-008. Acceptance of Application.

Within five (5) working days of the receipt of an application, the Director shall review the application for completeness and adequacy.

(1) No application shall be accepted until all omissions and deficiencies noted have been corrected by the applicant.

(2) No application shall be accepted which the Director deems cannot be acted upon reasonably within thirty (30) working days, unless the applicant consents to a longer period for action.

(3) No application shall be accepted unless accompanied by [copies of pertinent applications for required county or city permits or approvals or by a statement from the affected county or city stating that no permits or approvals are required. Applications for county or city permits or approvals must have been deemed as complete or accepted for processing by the affected city or county.] a statement from the applicable county or city planning department either than no approval or permit is required or that the applicant has been informed that approval or a permit is required.

350-20-011. Appeal of Decision by Director.

(1) The applicant or any person who submitted comments on a proposed development action pursuant to 350-20-009(7) may appeal the decision of the Director by filing a Notice of Appeal within the following time periods:

(a) Twenty (20) working days after the date the decision was mailed under 350-20-010(4); or

(b) Fifteen (15) working days after the date the decision was mailed under 350-20-010(4) where the proposed development action is one of those described in 350-20-009 (7)(b).

(2) The Notice of Appeal shall:

(a) Refer to the decision being appealed;

- (b) Show that the person filing the appeal is either the applicant or submitted comments within the time specified in 350-20-009(7);
 - (c) Set forth the specific standards, guidelines or other grounds upon which the appeal is based;
 - (d) State the date of the Director's decision; and
 - (e) [Shall show service by mail upon those persons listed in subsection (1)] Indicate that the appellant has served by mail a copy of the Notice of Appeal upon the applicant, if other than the appellant, and those persons who submitted comments on the proposed development action pursuant to 350-20-009(7).
- (3) Notices of Appeal not received within the time allotted by this section shall not be accepted.

350-20-012. Intervention in Appeal Hearing

(1) The applicant or any person who submitted comments on a proposed development action pursuant to 350-20-009(7) may participate in an appeal of the Director's decision by filing a [Motion to Intervene] Notice of Intervention with the Director within fifteen (15) working days of the date of the Notice of Appeal or Notice of Commission Initiated Review was mailed. The [Motion to Intervene] Notice of Intervention shall also be served by mail upon the applicant, the appellant if other than the applicant, [the applicable county or city,] and all persons who submitted comments on the proposed development action pursuant to 350-20-009(7).

(2) The [Motion to Intervene] Notice of Intervention shall:

- (a) Refer to the Notice of Appeal for which intervenor status is being sought;
 - (b) Show that the person filing the [motion] Notice of Intervention is either the applicant or submitted comments on the proposed development action pursuant to 350-20-009(7);
 - (c) Set forth the specific standards, guidelines or other grounds upon which the [motion to intervene] Notice of Intervention is based;
 - (d) State the date of the Notice of Appeal; and
 - (e) Show service by mail upon those persons listed in subsection (1).
- (3) Failure to file a Notice of Intervention which satisfies the requirements of subsection (2) above will deprive a person of the opportunity to participate under this section.

350-20-013. Commission Initiated Review

(1) A decision of the Director shall be referred directly to the Commission for hearing if three (3) or more members of the Commission file a written Notice of Commission Initiated Review [to] with the Director within twenty (20) working days after the date the Notice of Decision was mailed. Copies of the Notice shall [also] be served by mail upon the applicant, the appellant if other than the applicant, and all persons who submitted comments on the proposed development action pursuant to 350-20-009(7).

(2) The Notice of Commission Initiated Review shall:

- (a) Refer to the decision being appealed;
- (b) Identify the Commission members filing the Notice;
- (c) Set forth the specific policy issues, standards, guidelines or other grounds upon which the Notice of Commission Initiated Review is based;
- (d) State the date of the Director's decision; and
- (e) Show service by mail upon those persons listed in subsection (1).

350-20-015. Hearing Date and Notice

(1) The Commission shall at the earliest practical date set a time and place to hear an appeal. In any event, the Commission shall conduct a hearing within forty-five (45) working days after the receipt of a Notice of Appeal or Notice of Commission Initiated Review, unless the parties agree to a later date.

(2) Notice of Hearing shall be mailed to all parties at least ten (10) working days in advance of the scheduled hearing in the form prescribed in 350-16-010, the Commission's Administrative Procedures Rule.

WSR 89-24-070
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Filed December 6, 1989, 9:30 a.m.]

Original Notice.

Title of Rule: Amending WAC 356-22-120 Examinations—Promotional—Evaluations—Regulations; and 356-22-010 Examination—Announcements.

Purpose: These rules describe the information that must be included in examination announcements.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: The changes will delete the requirement that the type of examination and method of ranking candidates be included in the examination requirement.

Reasons Supporting Proposal: Occasionally the type of examination changes during the recruitment process due to changing needs of the requesting agency. The present rule necessitates the reissuing of a new examination announcement in that event.

Name of Agency Personnel Responsible for Drafting: Paul Peterson, 521 Capitol Way South, Olympia, 586-1769; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: These rules describe the minimum information required on examination announcements produced by the Department of Personnel. These proposed changes will allow the department to continue the recruitment under the same announcement in the event of a change in the type of examination from what was published. This will allow a more efficient recruitment process that is not contingent upon the completion of an examination prior to opening recruitment.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on January 11, 1990, at 10:00 a.m.

Submit Written Comments to: Paul Peterson, Department of Personnel, P.O. Box 1789, FE-11, Olympia, WA, by January 9, 1990.

Date of Intended Adoption: January 11, 1990.

December 5, 1989
Dee W. Henderson
Secretary

AMENDATORY SECTION (Amending Order 175, filed 9/22/82)

WAC 356-22-120 EXAMINATIONS—PROMOTIONAL—EVALUATIONS—REGULATIONS. (1) Inter-agency and intra-agency promotional examinations shall be announced as the director of personnel determines the need and shall be open to current employees and employees who have been separated by reduction in force within the last year who meet the minimum requirements of the position. Promotional examinations shall consist of any combination of written, performance or oral test, or rating of training and experience.

(2) The announcement of the promotional examination shall specify the desirable or minimum requirements((, the parts of the examination and the method of rating)). Announcements shall be prominently posted by all appropriate agencies to ensure that the information is reasonably available to all.

(3) For a class used by only one agency, a promotional evaluation may be used in promotional scores if the class is in workweek group E and all competing employees are employed by the same agency at the time of the examination.

(4) When any of the conditions in (3) above are not met, a promotional evaluation may be used in promotional scores provided that the director of personnel determines such promotional evaluations are practical and necessary to improve the effectiveness of the examination.

AMENDATORY SECTION (Amending Order 267, filed 1/2/87)

WAC 356-22-010 EXAMINATION—ANNOUNCEMENTS.
 (1) Recruitment shall be conducted publicly in any manner which the director or designee determines will attract a sufficient number of qualified persons to meet the needs of the classified service, and shall include methods designed to attract protected group members. Recruitment announcements shall be posted publicly, as selected by the director, and at all offices of the department of personnel. Each recruitment announcement shall give the title and salary range of the class, a general description of the duties performed, the applicable minimum or desirable qualifications, ((the type of examination;)) and shall encourage protected group members to apply.

(2) The director may limit recruitment to applicants meeting selective criteria.

(3) The director may limit open competitive recruitment to applicants available for employment to specific geographic locations.

(4) Registers established under subsections (2) and (3) of this section will be used exclusively for filling positions for which such recruitment has been conducted.

WAC. This is being done only to be consistent with the rest of the chapter and is housekeeping in nature.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on January 11, 1990, at 10:00 a.m.

Submit Written Comments to: Paul Peterson, Department of Personnel, P.O. Box 1789, Olympia, WA 98507, by January 9, 1990.

Date of Intended Adoption: January 11, 1990.

December 5, 1989

Dee W. Henderson
Secretary

REPEALER

WAC 356-22-11001 EXAMINATIONS—USE OF AIDS BY APPLICANTS.

NEW SECTION

WAC 356-22-111 EXAMINATIONS—USE OF AIDS BY APPLICANTS. (1) The director may allow applicants to use mechanical, electrical, or electronic devices, or combinations thereof, that supplement the applicant's capabilities, provided:

(a) The devices are judged by the director to have physical characteristics such as size, acoustical qualities, and portability that will make them not physically disturbing to other applicants taking the examination.

(b) The devices are suitable for and actually allowed to be used in performing the duties of the class for which the applicant is being tested.

(c) The devices do not enhance a physical capability or a mental capability that the test designers intended should be measured unaided by such supplements.

(d) The devices do not supply knowledge to the applicants that the test designers intended should be measured unaided by such supplements.

(2) Unless the device has previously been determined by the director as allowable for use in the examination, applicants will not be allowed to use it.

(3) The use, when allowable, of such devices is optional by the applicants. The department of personnel shall not be required to furnish such devices or make special arrangements for their use.

WSR 89-24-071 PROPOSED RULES DEPARTMENT OF PERSONNEL (Personnel Board)

[Filed December 6, 1989, 9:32 a.m.]

Original Notice.

Title of Rule: Repealing WAC 356-22-11001 Examinations—Use of aids by applicants; and adding WAC 356-22-111 Examinations—Use of aids by applicants.

Purpose: This rule establishes guidelines in using mechanical, electrical, or electronic devices used in testing situations.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: This proposal will change the number of the section of this WAC only.

Reasons Supporting Proposal: The number of the section of this WAC is being changed only to be consistent with the rest of the sections. This change is a housekeeping change only.

Name of Agency Personnel Responsible for Drafting: Paul Peterson, 521 Capitol Way South, Olympia, 586-1769; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Paul Peterson, Department of Personnel, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The only change that will occur with this rule is that we are changing the number of the section of the

WSR 89-24-072 PROPOSED RULES DEPARTMENT OF PERSONNEL (Personnel Board)

[Filed December 6, 1989, 9:34 a.m.]

Original Notice.

Title of Rule: WAC 356-05-210 Law enforcement personnel.

Purpose: This rule defines law enforcement work period designation as doing law enforcement 50% or more of the time.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: The proposal will change the requirement for performance of law enforcement duties from primary duty (50% or more of the time) to "80% or more of the time," which is the requirement in the Code of Federal Regulations.

Reasons Supporting Proposal: For compliance with the Fair Labor Standards Act.

Name of Agency Personnel Responsible for Drafting: Gail Salisbury, 521 Capitol Way South, Olympia, 753-5383; **Implementation and Enforcement:** Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

Rule is necessary because of federal law, Fair Labor Standards Act, 553.211, 553.212 and 553.213.

Explanation of Rule, its Purpose, and Anticipated Effects: The current rule defines law enforcement work period designation as doing law enforcement work 50% or more of the time. The current requirement in the Code of Federal Regulation states for performance of law enforcement duties 80% or more of the time. This proposal is for compliance with the Fair Labor Standards Act.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on January 11, 1990, at 10:00 a.m.

Submit Written Comments to: Gail Salisbury, Department of Personnel, P.O. Box 1789, Olympia, WA, by January 9, 1990.

Date of Intended Adoption: January 11, 1990.

November 16, 1989
Dee W. Henderson
Director
Secretary
Personnel Board

AMENDATORY SECTION (Amending Order 248, filed 5/28/86, effective 7/1/86)

~~WAC 356-05-210 LAW ENFORCEMENT PERSONNEL. Employees ((empowered by statute to enforce laws designed to maintain public peace and order, whose primary duty (fifty percent or more of the time) is to protect life and property, and detect and prevent crimes. Employees in these positions must have the power of arrest, and have training which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid, and ethics)) who meet the Fair Labor Standards Act requirements for the section 7(K) special exemption as described and limited by chapter 29, Code of Federal Regulations, sections 553.211 and 553.212, and who are designated as law enforcement work period designation by the personnel board.~~

WSR 89-24-073 PROPOSED RULES **SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Filed December 6, 1989, 10:55 a.m.]

Original Notice.

Title of Rule: WAC 392-137-010 Finance—Nonresident attendance.

Purpose: To clarify the definition of "residence" as used in rules that establish criteria for attendance in preschool through twelfth grade programs of any public school.

Statutory Authority for Adoption: RCW 28A.58.240.
Statute Being Implemented: RCW 28A.58.240.

Summary: See above.

Reasons Supporting Proposal: See above.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Old Capitol Building, (206) 753-2298; **Implementation:** David Moberly, Old Capitol Building, (206) 753-6742; and **Enforcement:** Doyle Winter, Old Capitol Building, (206) 753-1880.

Name of Proponent: Superintendent of Public Instruction, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: To clarify the definition of "residence" as used in rules that establish criteria for attendance in preschool through twelfth grade programs of any public school.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Wanamaker Conference Room, Old Capitol Building, Olympia, Washington, on January 12, 1990, at 9:00 a.m.

Submit Written Comments to: Superintendent of Public Instruction, Legal Services, Richard M. Wilson, by January 9, 1990.

Date of Intended Adoption: January 12, 1990.

December 6, 1989
Judith A. Billings
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 83-11, filed 8/18/83)

WAC 392-137-010 DEFINITIONS. As used in this chapter, the term: (1) "Residence" shall mean the physical location of a student's principal abode—i.e., the home, house, apartment, facility, structure, etc., within which the student lives the majority of the time. The mailing address of the student—e.g., parent's address or post office box—may be different than the student's principal abode. The lack of a mailing address does not preclude residency under this section.

(2) "Resident student" shall mean a student:

(a) Whose residence is within the school district of attendance; or
(b) Whose residence is within the boundaries of any military, naval, lighthouse, other United States reservation, national park, national forest, or Indian reservation (provided the student resides upon rented or leased undeeded lands within the Indian reservation) which is contiguous to the school district of attendance; or

(c) Whose residence is within a school district which does not carry the grades for which the student is eligible to enroll (e.g., a non-high school district).

(3) "Nonresident student" shall mean any student other than a resident student whose residence is within the state of Washington.

(4) "Resident district" shall mean the Washington state school district or districts of which a student is considered to be a resident.

(5) "Nonresident district" shall mean any school district other than a resident school district.

WSR 89-24-074 PROPOSED RULES **DEPARTMENT OF AGRICULTURE**

[Filed December 6, 1989, 11:31 a.m.]

Supplemental Notice to WSR 89-19-065.

Title of Rule: New chapter 16-557 WAC, Washington Asparagus Commission.

Purpose: To establish a commodity commission to represent asparagus growers with the authority to collect

assessments and to carry out activities in promotion research, public information, and the prevention of unfair trade practices, all related to asparagus.

Statutory Authority for Adoption: RCW 15.65.050.

Statute Being Implemented: Chapter 15.65 RCW.

Summary: Create a new Washington Asparagus Commission consisting of a nine-member board with authority as stated above.

Reasons Supporting Proposal: New commission will be able to generate funds to support the activities listed above and assist in solving some of the industry's problems.

Name of Agency Personnel Responsible for Drafting: Roger Roberts, 406 General Administration Building, AX-41, Olympia, (206) 753-5028; **Implementation and Enforcement:** Washington Asparagus Commission.

Name of Proponent: Petition signed by twenty producers as provided for in RCW 15.65.050. Referendum costs funded by Washington Asparagus Growers Association, private.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Producers must approve in compliance with RCW 15.65.060 before this rule can become effective.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule would establish a Washington Asparagus Commission under the Washington Agricultural Enabling Act of 1961. The purpose is to assess asparagus growers on products sold to generate funds to carry out market promotion projects, production and marketing research, information for producers, and take part in the prevention of unfair trade practices. The commission will provide a constant source of funds and allow for long range activities that will improve the efficiency of production and marketing and return greater profit to the producer.

Proposal does not change existing rules.

Proposal changes proposed rule filed September 20, 1989, deleting the purposes of the commission concerning the conformation to grades and standards, the inspection and enforcement to effectuate compliance, and the duties of the director relating to grades and standards which is already authorized in the department's rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Washington State Department of Agriculture Conference Room, 406 General Administration Building, AX-41, Olympia, WA 98504, on January 9, 1990, at 1:15 p.m.

Submit Written Comments to: Washington State Department of Agriculture, by January 9, 1990.

Date of Intended Adoption: January 9, 1990.

December 6, 1989

Arthur C. Scheunemann
Managing Director
Market Development

Chapter 16-557 WAC WASHINGTON ASPARAGUS COMMISSION

WAC

16-557-010	Definition of terms.
16-557-020	Asparagus commodity board.
16-557-030	Marketing order purposes.
16-557-040	Assessments and collections.
16-557-041	Time—Place—Method for payment and collection of assessments.
16-557-050	Obligations of the board.
16-557-060	Termination of the order.
16-557-070	Effective time.
16-557-080	Separability.

NEW SECTION

WAC 16-557-010 DEFINITION OF TERMS. For the purpose of this marketing order:

(1) "Director" means the director of agriculture of the state of Washington or his duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington Agricultural Enabling Act of 1961 or chapter 15.65 RCW.

(4) "Person" means any person, firm, association, or corporation.

(5) "Affected producer" means any person who produces in the state of Washington asparagus in commercial quantities for fresh market, for processing, or for sale to processors.

(6) "Commercial quantity" means any asparagus produced for market in quantities of three tons (6,000 pounds) or more, in any calendar year.

(7) "Affected handler" means both affected handler fresh and affected handler processor.

(8) "Affected handler, fresh" means any person who acts as principal or agent or otherwise in selling, marketing, or distributing fresh asparagus not produced by him.

(9) "Affected handler, processor" means any person who acts as principal or agent or otherwise in processing, freezing asparagus, and selling, marketing, or distributing said processed or frozen asparagus, not produced by him.

(10) "Asparagus commodity board," hereinafter referred to as "board," means the commodity board formed under the provisions of WAC 16-557-020.

(11) "Asparagus" means and includes all kinds, varieties, and hybrids of "officinalis" Linn.

(12) "Marketing season" or "fiscal year" means the twelve-month period beginning with January 1 of any year and ending with the last day of December following, both dates being inclusive.

(13) "Producer-handler" means any person who acts both as a producer and as a handler with respect to asparagus. A producer-handler shall be deemed to be a producer with respect to the asparagus which he produces and a handler with respect to the asparagus which he handles, including those produced by himself.

(14) "Affected area" means the following counties in the state of Washington: Adams, Benton, Columbia, Franklin, Grant, Kittitas, Klickitat, Walla Walla, and Yakima.

(15) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

(16) "Affected unit" means one pound net pay weight of asparagus.

NEW SECTION

WAC 16-557-020 ASPARAGUS COMMODITY BOARD. (1) ADMINISTRATION. The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) **BOARD MEMBERSHIP.**

(a) The board shall consist of nine members. Six members shall be affected producers elected as provided in this section, one member shall be an affected handler, fresh, elected as provided in this section, one member shall be an affected handler processor, as provided in this section. The director shall appoint one member who is neither an affected producer nor a handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area shall be that portion of the state of Washington located east of the summit of the Cascade Mountains and shall be divided into three representative districts as follows:

(i) District I shall have two board members, being positions one and two, and shall be Benton, Kittitas, Klickitat, and Yakima counties.

(ii) District II shall have two board members, being positions three and four, and shall include the counties of Adams, Franklin, and Grant.

(iii) District III shall have two board members, being positions five and six, and shall include the counties of Columbia and Walla Walla.

(3) BOARD MEMBERSHIP QUALIFICATIONS.

(a) The affected producer members of the board shall be practical producers of asparagus and shall be citizens and residents of the state of Washington, over the age of twenty-five years, each of whom is and has been actively engaged in producing asparagus within the state of Washington for a period of five years and has, during that time, derived a substantial portion of his income therefrom. Producer-handlers shall be considered to be acting only as handlers for purpose of election and membership on a commodity board.

(b) The affected handler member of the board shall be a practical handler of asparagus and shall be a citizen and resident of the state of Washington, over the age of twenty-five years and who is and has been, either individually or as an officer or an employee of a corporation, firm, partnership association or cooperative actually engaged in handling asparagus within the state of Washington for a period of five years and has during that period derived a substantial portion of his income therefrom.

(c) The qualifications of members of the board must continue during their term of office.

(4) TERM OF OFFICE.

(a) The term of office, for members of the board shall be three years, and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through six, affected handler member fresh product, position seven, affected handler member, processor, position eight, and the member appointed by the director, position nine.

(c) The term of office for the initial board members shall be as follows:

Positions one, three, and seven – one year, shall terminate on December 31, 1991;

Positions two, four, and five – two years, shall terminate on December 31, 1992;

Positions six and eight – three years, shall terminate on December 31, 1993.

(d) No elected produce member of the board may serve more than two full consecutive three-year terms.

(5) NOMINATION AND ELECTION OF BOARD MEMBERS. For the purpose of nominating candidates for election to board membership, the director shall call separate meetings of affected producers, affected handlers, fresh and affected handler processors. Each year the director shall call for nomination meetings in those districts whose board members' term is about to expire. Such meetings shall be held at least thirty days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the affected area not less than ten days in advance of the date of such meeting; and, in addition, written notice of every such meeting shall be given to all affected producers within the affected area and all affected handlers according to the list maintained by the director pursuant to RCW 15.65.200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer or affected handler may be nominated orally for membership on the board at such nomination meeting. Nominations may also be made within five days after any such meeting by written petition filed with the director, signed by not less than five affected producers or affected handlers. At the inception of this order, nominations may be made at the issuance hearing.

(6) ELECTION OF BOARD MEMBERS.

(a) Members of the board shall be elected by secret mail ballot within the month of November under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers within the affected district. Each affected producer within the affected district shall be entitled to one vote.

Affected handler, fresh, shall be elected by a majority of the votes cast by the affected handlers, fresh. Affected handler, processor, shall be elected by a majority of the votes cast by the affected handlers, processor.

(b) If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the affected area not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each affected producer or affected handler entitled to vote whose name appears on the list of such affected producers and affected handler within the affected area maintained by the director in accordance with RCW 15.65.200. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing his qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board members.

(7) VACANCIES PRIOR TO ELECTION. In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

(8) QUORUM. A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) BOARD COMPENSATION. No member of the board shall receive any salary or other compensation, but each member may receive thirty-five dollars or an amount as provided for in RCW 43.03.230 for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board, together with travel expenses at the rates allowed state employees.

(10) POWERS AND DUTIES OF THE BOARD. The board shall have the following powers and duties:

(a) To administer, enforce, and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel as the board determines necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of the order. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited with the director in order to defray the costs of formulating the order.

(f) To establish an "asparagus board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except for an amount of petty cash for each days' needs, not to exceed fifty dollars, shall be deposited daily, or as often as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys, and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or the order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(11) PROCEDURES FOR BOARD.

(a) The board shall hold regular meetings, at least quarterly, and such meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act).

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer, and handler and by regular news service.

(c) In accordance with RCW 42.30.080, the board shall establish by resolution, the time, place, and manner of calling special meetings of the board with reasonable notice to the members: PROVIDED, That the notice of any special meeting may be waived by a waiver thereof by each member of the board.

NEW SECTION

WAC 16-557-030 MARKETING ORDER PURPOSES. The order is to promote the general welfare of the state, to enable producers of asparagus to help themselves establish orderly, fair, sound, efficient, unhampered marketing; facilitate cultural and harvesting improvements, and regulate unfair trade practices within the industry. To carry out the purposes of the order, the board may provide for a program in one or more of the following areas:

(1) Establish plans and conduct programs for advertising, sales, promotion, and/or other programs for maintaining present markets and/or creating new or larger markets for asparagus. Such programs shall be directed toward increasing the sale of asparagus without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims in behalf of asparagus nor disparage the quality, value, sale, or use of any other agricultural commodity.

(2) Provide for research in the production, processing, and/or marketing of asparagus and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried on by Washington State University, but if in the judgment of the board, said university does not have the facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(3) Investigate and take necessary action to prevent unfair trade practices and to correct where possible, trade practices which hinder marketing of Washington asparagus.

(4) Prohibit making or publishing false or misleading advertising. Such regulation may authorize uniform trade practices applicable to all similarly situated handlers and/or other persons.

NEW SECTION

WAC 16-557-040 ASSESSMENTS AND COLLECTIONS. (1)
Assessments.

(a) The annual assessment on all varieties of asparagus shall be one percent of the gross receipts at first point of sale.

(b) For the purpose of collecting assessments, the board may:

(i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or

(ii) Require the person subject to the assessment to give adequate assurance or security for its payment.

(c) Subsequent to the first sale, no affected units shall be transported, carried, shipped, sold, marketed, or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped, or sold, both inside and outside the state.

(2) Collections. Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any season or year, may be refunded on a prorata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order, to all persons from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding season, year, or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) Remedies. Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to, add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

NEW SECTION

WAC 16-557-041 TIME—PLACE—METHOD FOR PAYMENT AND COLLECTION OF ASSESSMENTS. Effective with the growing season of 1990, the following procedure is established for the reporting and paying of assessments levied pursuant to RCW 15.65.410 and WAC 16-557-040:

(1) All first handlers of asparagus for resale or for processing shall withhold the amount of the assessment from their remittance to growers and transmit same to the commission. All such assessments accumulated will be due and payable to the commission within thirty days of collection. With the submission of the assessments, a report listing the name, address, pounds handled or purchased, and amount deducted or collected for each producer shall be submitted to the commission on forms provided by the commission.

(2) All growers selling asparagus other than to first handlers for resale or processing, whether selling direct or through brokers, and including all sales at retail, shall pay the assessment directly to the commission, within thirty days of sale of such product.

(3) Any assessments paid after the above deadlines shall be accompanied by a remedy fee of 10% as provided in RCW 15.65.440 of the act.

NEW SECTION

WAC 16-557-050 OBLIGATIONS OF THE BOARD. Obligations incurred by the board or employee or agent thereof pertaining to their performance or nonperformance or misperformance of any matters or things authorized, required, or permitted them by the act or this order, and any other liabilities or claims against them or any of them shall be enforced in the same manner as if the whole organization under the order were a corporation. No liability for the debts or actions of the board, employee, or agent incurred in their official capacity under this order shall exist either against the board, officers, employees, and/or agents in their individual capacity, nor against the state of Washington or any subdivision or instrumentality thereof nor against any other organization, administrator, or board (or employee or agent thereof) established pursuant to this act or the assets thereof. The board, and its agents and employees, shall not be held responsible individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other board, member of the board, or other person. The liability of the members of the board shall be several and not joint and no member shall be liable for the default of any other member.

NEW SECTION

WAC 16-557-060 TERMINATION OF THE ORDER. The order shall be terminated if the director finds that fifty-one percent by numbers and fifty-one percent by volume of production of the affected producers favor or assent to such dissolution. The director may ascertain without compliance with RCW 15.65.050 through 15.65.130 of the act whether such termination is so assented to or favored whenever twenty percent by numbers and twenty percent by volume of production of the affected producers file written application with him for such termination. The termination shall not, however, become effective until the expiration of the marketing season.

NEW SECTION

WAC 16-557-070 EFFECTIVE TIME. The marketing order for asparagus shall become effective on and after February 5, 1990.

NEW SECTION

WAC 16-557-080 SEPARABILITY. If any provisions hereof are declared invalid, or the applicability thereof to any person, circumstances, or thing is held invalid, the validity of the remainder hereof or of the applicability thereof to any other person, circumstances, or thing shall not be affected thereby.

**WSR 89-24-075
PROPOSED RULES
DEPARTMENT OF HEALTH**

[Filed December 6, 1989, 12:59 p.m.]

Original Notice.**Title of Rule:** Dentist license renewal fees.

Purpose: To add a \$15.00 surcharge to dentist license renewal fees, to finance a contract entered into under subsection (1) of SSB 5614 an act relating to implementation of voluntary substance abuse monitoring programs for dentists.

Other Identifying Information: This proposal was adopted as an emergency rule effective October 12, 1989.

Statutory Authority for Adoption: RCW 43.24.086.

Statute Being Implemented: Chapter 125, Laws of 1989.

Summary: This proposal conforms adjudicative proceeding to the new Administrative Procedure Act.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Mayo, 1300 Quince Street, Olympia, WA, 753-2461.

Name of Proponent: Department of Health, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: To add a \$15.00 surcharge to dentist license renewal fees, to finance a contract entered into under subsection (1) of SSB 5614 an act relating to implementation of voluntary substance abuse monitoring programs for dentists.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Conference Room 1, Department of Health, 1300 Quince Street, Olympia, WA 98504, on January 9, 1990, at 9:00.

Submit Written Comments to: Leslie Baldwin, 1300 Quince Street, Olympia, WA 98504, by January 8, 1990.

Date of Intended Adoption: January 11, 1990.

December 6, 1989
Pam Campbell Mead
Deputy Secretary
for Kristine M. Gebbie
Secretary

AMENDATORY SECTION (Amending Order PM 667, filed 8/27/87)

WAC 308-40-125 DENTIST FEES. The following fees shall be charged by the professional licensing division of the department of (~~licensing~~) health:

Title of Fee	Fee
Application (examination and reexamination)	\$400.00
Partial retake	120.00
Renewal	165.00
Late renewal penalty	200.00
Reciprocity application	400.00
Duplicate license	15.00
Certification	25.00
Investigation fee	25.00
Impaired dentist surcharge	15.00

**WSR 89-24-076
PROPOSED RULES
PARKS AND RECREATION COMMISSION**

[Filed December 6, 1989, 2:53 p.m.]

Original Notice.**Title of Rule:** Use of metal detectors in state parks.

Purpose: Allows time, place and procedures for using metal detectors in Washington's state parks.

Statutory Authority for Adoption: RCW 43.51.040 and 43.51.060.

Statute Being Implemented: RCW 43.51.040.

Summary: Establishes hours of operation, registration process, and method of using metal detectors at state parks.

Reasons Supporting Proposal: Current rules do not allow sufficient access or flexibility for metal detectors.

Name of Agency Personnel Responsible for Drafting: Don Powell, Staff, State Parks, Operations, Olympia, Washington, 753-1619; **Implementation and Enforcement:** Lynn Genasci, Assistant Director, Operations, Olympia, Washington, 753-5761.

Name of Proponent: Lynn Genasci, Assistant Director, Operations, Washington State Parks, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Minimal additional impact on park operations.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will clarify when, where and how park visitors may use metal detectors in state parks. The purpose is to allow more opportunities for metal detecting, but also regulate the metal detectors by requiring them

to register with the park rangers and follow a conduct code.

Proposal Changes the Following Existing Rules:
Adopts code of user ethics; extends season to 12 months; broadens definition of digging probes; allows metal detecting for operational purposes; and must detect between park opening and 10:00 a.m., and not emit signal audible to other park visitors during summer.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Spokane Airport, Ramada Inn, on January 26, 1990, at 9:00 a.m.

Submit Written Comments to: Don Powell, State Parks, 715 Cleanwater Lane, Olympia, WA 98504-5711, by January 23, 1990.

Date of Intended Adoption: January 26, 1990.

December 6, 1989

Nina Carter
Executive Assistant

AMENDATORY SECTION (Amending Order 99, filed 3/23/87, effective 9/8/87)

WAC 352-32-235 USE OF METAL DETECTORS IN STATE PARKS. The use and operation of metal detectors, as well as the removal of found materials, is permitted within selected state parks as designated by the director, subject to the conditions and limitations specified.

(1) The use of metal detectors is permitted only within specified portions of the developed day use areas of these state parks as posted for public reference.

((Recovery and removal of any items found on state parks property, whether through the use of a metal detector or otherwise, are subject to the provisions of the Lost and found property statute (chapter 63.21 RCW).))

((3))) The use of metal detectors within a state park shall be limited to hours of operation ((from the day after Labor Day through May 15 of each)) before 10:00 a.m. from the Friday before Memorial Day through Labor Day, and shall be limited to the hours of operation at other times of the year. No use shall be allowed during periods of seasonal or emergency park closure.

((4))) (3) Any person wishing to use a metal detector shall so indicate to park personnel at the park where the use is to occur, by ((signing a register)) complying with the registration process provided for such purpose.

((5)) Metal detector use shall not interfere with other recreational activities.

(6) No item which appears to be of historical or archaeological significance, remaining from either early pioneer activity or from a native American presence, may be removed from the site at which it was found. Any such find shall be immediately reported to park personnel, and the area in which the find occurred shall not be disturbed further.

((7)) Digging implements shall be limited to ice picks and screwdrivers. Any holes dug shall be limited to six inches maximum depth and shall be immediately refilled and the surface restored to its earlier condition.

((8))) (4) Exceptional uses of metal detectors in state parks may be allowed through the issuance of a special recreation event application, available from the agency.

(5) This section does not apply to commission employees while engaged in the performance of their duties.

(6) Persons operating metal detectors in state parks and state park areas shall:

(a) Observe all laws and regulations.

(b) Never destroy or disturb park facilities, natural features, or historical or archeological resources. No item which appears to be of historical or archaeological significance, remaining from either early pioneer activity or from a native American presence, may be removed from the site at which it was found. Any such find shall be immediately reported to park personnel, and the area in which the find occurred shall not be disturbed further.

(c) Limit digging implements to ice picks, screwdrivers and probes not to exceed one inch width. Any holes dug shall be limited to six

inches maximum depth and shall be immediately refilled and the surface restored to its earlier condition.

(d) Properly dispose of all found or recovered trash and litter.

(e) Conduct themselves with thoughtfulness, courtesy and consideration for others, and not interfere with other recreational activities. An operator shall not allow any emitted metal detector sound audible to other park users from the Friday before Memorial Day through Labor Day.

WSR 89-24-077

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed December 6, 1989, 3:07 p.m.]

Original Notice.

Title of Rule: Repealing WAC 308-128B-060 Inactive escrow officer license.

Purpose: Implements RCW 18.44.310.

Statutory Authority for Adoption: RCW 18.44.320.

Statute Being Implemented: RCW 18.44.310, as amended by section 1, chapter 51, Laws of 1989.

Summary: Deletion of the time period for which an escrow officer's license may be inactive.

Reasons Supporting Proposal: To implement the statute.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Syd Beckett, Program Administrator, Department of Licensing, Division of Professional Licensing Services, Real Estate, Escrow and Appraisers, P.O. Box 9012, Olympia, Washington 98504, (206) 586-4681.

Name of Proponent: Director, Department of Licensing, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The repeal of WAC 308-128B-060 deletes the time limit for which an escrow officer's license can be inactive. This reflects the deletion of the requirement in RCW 18.44.310.

Proposal Changes the Following Existing Rules: [No information supplied by agency.]

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Licensing, Training Center, 421 Black Lake Boulevard, Olympia, WA 98502, on January 11, 1990, at 10:30 a.m.

Submit Written Comments to: Syd Beckett, Program Administrator, P.O. Box 9012, Olympia, Washington 98504, by January 8, 1990.

Date of Intended Adoption: January 11, 1990.

December 6, 1989

Sydney W. Beckett
Program Administrator

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-128B-060 INACTIVE ESCROW OFFICER LICENSE

WSR 89-24-078
PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed December 6, 1989, 3:11 p.m.]

Original Notice.

Title of Rule: WAC 308-128B-080 Escrow officer and agent fees.

Purpose: To fix certain fees for escrow officers, agents and branch offices.

Statutory Authority for Adoption: RCW 43.24.086.

Statute Being Implemented: RCW 18.44.080.

Summary: The proposal would establish new fees in connection with the regulation of chapter 18.44 RCW.

Reasons Supporting Proposal: A cost study has determined that the current fees must be raised in order to offset the costs of administering the escrow officer and agent program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Syd Beckett, 1300 Quince Street, Olympia, WA 98504, (206) 753-6974.

Name of Proponent: Director, Department of Licensing, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This proposal is intended to meet the requirements of RCW 43.24.086.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal would establish new fee levels for escrow officer, agents and branch offices in an amount sufficient to defray the costs of administering the escrow program.

Proposal Changes the Following Existing Rules: This proposal changes the examination/reexamination, application, original and renewal licensing and certification fees for escrow officers and agents.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The director has considered this rule is not subject to the Regulatory Fairness Act because it will have only minor or negligible impact on small business escrow firms and because the fees are adopted in order to conform to state law.

Hearing Location: Department of Licensing, Training Center, 421 Black Lake Boulevard, Olympia, WA 98502, on January 11, 1990, at 10:30 a.m.

Submit Written Comments to: Syd Beckett, Program Administrator, P.O. Box 9012, Olympia, Washington 98504, by January 8, 1990.

Date of Intended Adoption: January 11, 1990.

December 6, 1989
Sydney W. Beckett
Program Administrator

AMENDATORY SECTION (Amending Order PM 668, filed 8/27/87)

WAC 308-128B-080 ESCROW OFFICER AND AGENT FEES. On March 1, 1990, the following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Escrow officer: First examination	((+\$100.00)) <u>\$150.00</u>
Reexamination	((+\$0.00)) <u>150.00</u>
Original license	((+\$50.00)) <u>200.00</u>
License renewal	((+\$75.00)) <u>200.00</u>
Transfer of license, name or address change or license activation	((+\$5.00)) <u>25.00</u>
Duplicate license	((+\$5.00)) <u>25.00</u>
Escrow agent: Application and original certificate	((-\$75.00)) <u>375.00</u>
Renewal	((-\$75.00)) <u>375.00</u>
Late renewal with penalty	((-\$50.00)) <u>562.50</u>
Transfer of ((license)) certificate, name or address change	((+\$5.00)) <u>25.00</u>
Duplicate ((license)) certificate	((+\$5.00)) <u>25.00</u>
Escrow agent branch office: Application and original license	((-\$75.00)) <u>375.00</u>
Renewal	((-\$75.00)) <u>375.00</u>
Late renewal with penalty	((-\$50.00)) <u>562.50</u>
Transfer of license, name or address change	((+\$5.00)) <u>25.00</u>
Duplicate license	((+\$5.00)) <u>25.00</u>

WSR 89-24-079
PREPROPOSAL COMMENTS
DEPARTMENT OF NATURAL RESOURCES
(Forest Practices Board)
[Filed December 6, 1989, 3:14 p.m.]

Subject of Possible Rule Making: The Washington Forest Practices Board is considering possible changes to the classification scheme for forest practices found in WAC 222-16-050. This rule making review is primarily concerned with section (1)(a)-(e), Class IV-Special, but is not limited to that section.

Persons may comment on this subject in writing, Thomas E. Robinson, Executive Secretary, Forest Practices Board, Mailstop EL-03, Olympia, Washington 98504, prior to January 31, 1990.

Other Information or Comments by Agency at this Time, if any: The Forest Practices Act creates Class I, II, III and IV forest practices and directs the Forest Practices Board to establish by rule which forest practices should be included within each class. Class I, II and III forest practices are exempt from the requirements for preparation of a detailed statement under SEPA; Class IV forest practices require an evaluation to determine whether a detailed statement must be prepared.

Forest practices have been classified by the Forest Practices Board in WAC 222-16-050. The Class IV category has been split into two subclasses: Class IV – Special in WAC 222-16-050(1) and Class IV – General in WAC 222-16-050(2). Class IV – Special forest practices, listed in WAC 222-16-050 (1)(a)–(e), are those forest practices which the Forest Practices Board has determined have the potential for a substantial impact on the environment.

The Forest Practices Board is reviewing WAC 222-16-050 to determine if any forest practices should be reclassified. The Forest Practices Board is particularly interested in comments on what types of forest practices may have the potential for a substantial impact on the environment and should be Class IV – Special. Please keep in mind when commenting that all forest practices, regardless of class, must be conducted in accordance with the forest practices regulations in Title 222 WAC.

December 6, 1989
Thomas E. Robinson
Executive Secretary
Forest Practices Board

WSR 89-24-080
PROPOSED RULES
DEPARTMENT OF WILDLIFE

[Filed December 6, 1989, 3:18 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-011 Wildlife classified as protected wildlife.

Purpose: Identify within the category of protected wildlife, the subcategories of threatened, sensitive, or other protected wildlife, and classify the species identified into these subcategories.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Same as Purpose.

Reasons Supporting Proposal: Same as Purpose. Note: This regulation, as amended, is consistent with WAC 232-12-217, scheduled for adoption at the same time.

Name of Agency Personnel Responsible for Drafting: Tom Juelson, AD, Wildlife Management Division, Olympia, (206) 753-5728; **Implementation and Enforcement:** Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose.

Proposal Changes the Following Existing Rules: Amends WAC 232-12-011 as indicated in Purpose and Summary.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: North Thurston School District Administrative Center, 305 College Street N.E., Lacey, WA 98506, on January 19, 1990, at 8:00 a.m.

Submit Written Comments to: Lee S. Smith, Department of Wildlife, 600 Capitol Way North, Olympia, WA, by January 8, 1990.

Date of Intended Adoption: January 19, 1990.

December 5, 1989

Lee S. Smith
Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 392, filed 5/19/89 [5/18/89])

WAC 232-12-011 PROTECTED WILDLIFE CLASSIFIED AS THREATENED, SENSITIVE, AND OTHER ((PROTECTED WILDLIFE)). (1) Threatened species.

Wildlife classified as threatened include ferruginous hawk, Buteo regalis; bald eagle, Haliaeetus leucocephalus; western pond turtle, Clemmys marmorata; green sea turtle, Chelonia mydas; Oregon silverspot butterfly, Speyeria zerene hippolyta; pygmy rabbit, Brachylagus idahoensis.

(2) Sensitive species

(3) Other protected wildlife.

Other ((P)) protected wildlife include((s)) all birds not classified as game birds, predatory birds, threatened, sensitive, or endangered species; and fur seal, Callorhinus ursinus; fisher, Martes pennanti; wolverine, Gulo luscus; western gray squirrel, Sciurus griseus; Douglas squirrel, Tamiasciurus douglasii; red squirrel, Tamiasciurus hudsonicus; flying squirrel, Glaucomys sabrinus; golden-mantled ground squirrel, Callospermophilus saturatus; chipmunks, Eutamias; cony or pika, Ochotona princeps; hoary marmot, Marmota caligata and olympus; ((pygmy rabbit, Brachylagus idahoensis;)) all wild turtles not otherwise classed as threatened, sensitive, or endangered species; mammals of the order Cetacea, including whales, porpoises, and mammals of the sub-order Pinnipedia not otherwise designated as threatened, sensitive, or endangered species. This section shall not apply to hair seals and sea lions which are threatening to damage or are damaging commercial fishing gear being utilized in a lawful manner or when said mammals are damaging or threatening to damage commercial fish being lawfully taken with commercial gear.

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 in the Register pursuant to the requirements of RCW 34.08.040.

WSR 89-24-081
PROPOSED RULES
DEPARTMENT OF WILDLIFE

[Filed December 6, 1989, 3:19 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-054 Bow and arrow requirements.

Purpose: The amendment is intended to clarify the restriction on the use of electrical equipment or devices attached to a bow and arrow while hunting and to correct a typographical error.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: The regulation limits the restriction on electrical equipment and devices to such instruments that are used for sighting or ranging while hunting.

Reasons Supporting Proposal: See Purpose.

Name of Agency Personnel Responsible for Drafting: Lee Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; **Implementation:** Tom Juelson, AD, Wildlife Management Division, Olympia, (206) 753-5728; and **Enforcement:** Dan Wyckoff, AD,

Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose and Summary.

Proposal Changes the Following Existing Rules: Amends WAC 232-12-054 as indicated in Purpose and Summary.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: North Thurston School District Administrative Center, 305 College Street N.E., Lacey, WA 98506, on January 19, 1990, at 8:00 a.m.

Submit Written Comments to: Lee S. Smith, Department of Wildlife, 600 Capitol Way North, Olympia, WA, by January 8, 1990.

Date of Intended Adoption: January 19, 1990.

December 6, 1989

Lee S. Smith
Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 310, filed 6/6/88)

WAC 232-12-054 BOW AND ARROW REQUIREMENTS.

(1) It is unlawful for any person to hunt big game animals with a bow that possesses less than 40 pounds of pull measured at twenty-eight inches or less draw length or has a greater than 65% reduction (let off) in holding weight at full draw.

(2) It is unlawful to hunt big game animals with any arrow((\{\})), including broadhead, weighing less than 400 grains (400 gr.) or having sharp broadhead blade or blades less than seven-eighths inches wide. It is unlawful to hunt with a broadhead blade unless the broadhead is unbarbed and completely closed at the back end of the blade or blades by a smooth, unbroken surface starting at maximum blade width forming a smooth line toward the feather end of the shaft and such line does not angle toward the point.

(3) It is unlawful for any person to carry or have in his possession any firearm while in the field archery hunting, during the bow and arrow season specified for that area.

(4) It is unlawful to shoot at wildlife with an arrow from a vehicle or from, across or along the maintained portion of a public highway.

(5) It is unlawful to use any device secured to or supported by the bow for the purpose of maintaining the bow at full draw or in a firing position.

(6) It is unlawful to have any electrical equipment or devices(s) attached to the bow or arrow for the purpose of sighting or ranging while hunting.

WSR 89-24-082 PROPOSED RULES DEPARTMENT OF WILDLIFE

[Filed December 6, 1989, 3:21 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-12-297 Endangered, threatened, and sensitive wildlife species classification rules.

Purpose: To identify and classify native wildlife species that have need of protection and/or management to ensure their survival as free-ranging populations in Washington and to define the process by which listing, management, recovery, and delisting of a species can be

achieved. These rules are established to ensure that consistent procedures and criteria are followed when classifying wildlife as endangered, threatened, or sensitive.

Statutory Authority for Adoption: RCW 77.12.020.

Statute Being Implemented: RCW 77.12.020.

Summary: Establishes the formal process the Department of Wildlife will use to classify wildlife species as endangered, threatened, or sensitive. The WAC includes definitions, listing criteria, provisions for public review, components of a species status report, and recovery plan development.

Reasons Supporting Proposal: There are certain wildlife species in Washington whose biological status is of concern to the Department of Wildlife and should be considered for classification as endangered, threatened, or sensitive. These rules are written to ensure that consistent procedures and criteria are followed when classifying wildlife as endangered, threatened, or sensitive.

Name of Agency Personnel Responsible for Drafting: Tom Juelson, AD, Wildlife Management Division, Olympia, (206) 753-5728; Implementation and Enforcement: Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose, Summary and Reasons.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: North Thurston School District Administrative Center, 305 College Street N.E., Lacey, WA 98506, on January 19, 1990, at 8:00 a.m.

Submit Written Comments to: Lee S. Smith, 600 Capitol Way North, Olympia, WA 98501, by January 8, 1990.

Date of Intended Adoption: January 19, 1990.

December 6, 1989

Lee S. Smith
Administrative Regulations Officer

NEW SECTION

WAC 232-12-297 ENDANGERED, THREATENED, AND SENSITIVE WILDLIFE SPECIES CLASSIFICATION RULES

PURPOSE

The purpose of this rule is to identify and classify native wildlife species that have need of protection and/or management to ensure their survival as free-ranging populations in Washington and to define the process by which listing, management, recovery, and de-listing of a species can be achieved. These rules are established to ensure that consistent procedures and criteria are followed when classifying wildlife as endangered, threatened, or sensitive.

DEFINITIONS

- 2.1 "Classify" and all derivatives means to list, de-list, or change the classification status of a wildlife species to or from endangered, threatened, or sensitive.
- 2.2 "Endangered" means any wildlife species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state.

- 2.3 "Threatened" means any wildlife species native to the state of Washington that could become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats.
- 2.4 "Sensitive" means any wildlife species native to the state of Washington that is vulnerable or declining and could become endangered or threatened in a significant portion of its range within the state without cooperative management or removal of threats.
- 2.5 "Species" means any species, subspecies or distinct population segment of wildlife which interbreeds when mature.
- 2.6 "Native" means any wildlife species naturally occurring in Washington on an annual basis for purposes of breeding, resting, or foraging, excluding introduced species not found historically in this state.
- 2.7 "De-list" and its derivatives means to change the classification of endangered, threatened, or sensitive species to a classification other than endangered, threatened, or sensitive.
- 2.8 "Significant portion of its range" means that portion of a species' range likely to be essential to its long term survival in Washington. This will vary by species and as noted in SEPA (WAC 197-11-794), significance involves context and intensity and does not lend itself to a formula or quantifiable test.

CLASSIFICATION CRITERIA

- 3.1 The Commission shall classify a wildlife species as endangered, threatened, or sensitive solely on the basis of the biological status of the species being considered, based on the scientific data available.
- 3.2 If a species is listed as endangered or threatened under the federal Endangered Species Act, the Agency will recommend to the Commission that it be classified as endangered or threatened as specified in Section 7.1. If classified, the Agency will proceed with development of a recovery plan pursuant to Section 9.1.
- 3.3 Species may be classified as endangered, threatened, or sensitive only when populations are in danger of failing, declining, or are vulnerable, due to factors including but not restricted to limited numbers, disease, predation, exploitation, or habitat loss or change.

INITIATION OF CLASSIFICATION PROCESS

- 4.1 Any one of the following events will initiate the classification process.
- 4.1.1 The Agency has significant concern for the population status of a species.
 - 4.1.2 A petition is received at the Agency from an interested person. The petition must present substantial scientific data indicating that the petition is warranted. The Agency shall make the final decision whether or not to initiate the classification process.
 - 4.1.3 An emergency, as defined by the Administrative Procedure Act, Chapter 34.05 RCW.
- 4.2 Upon initiation of the classification process the Agency shall publish a public notice announcing the initiation of the classification process and calling for scientific information relevant to the species status report under consideration pursuant to Section 5.1.

SPECIES STATUS REVIEW AND AGENCY RECOMMENDATIONS

- 5.1 Except in an emergency under 4.1.3 above, prior to making a recommendation to the commission, the Agency shall prepare a preliminary species status report. The report will include a review of information relevant to the species' status in Washington and address factors affecting its status, including those given under Section 3.3. The status report shall be reviewed by the public and scientific community. The status report will include, but not be limited to an analysis of:

- 5.1.1 Species management and population trends.
- 5.1.2 Natural history, including ecological relationships.
- 5.1.3 Historic and current habitat uses.

- 5.1.4 Population demographics and its relationship to long term sustainability.
- 5.2 Except in an emergency under 4.1.3 above, the Agency shall prepare recommendations for species classification, based upon scientific data contained in the status report. Documents shall be prepared to determine the environmental consequences of adopting the recommendations pursuant to requirements of the State Environmental Policy Act (SEPA).

PUBLIC REVIEW

- 6.1 Except in an emergency under 4.1.3 above, prior to making a recommendation to the commission, the Agency shall provide an opportunity for interested parties to submit new scientific data relevant to the status report, classification recommendation, and any SEPA findings.
- 6.1.1 The Agency shall allow at least 90 days for public comment.
 - 6.1.2 The Agency will hold at least one public meeting in each of its administrative regions during the public review period.

FINAL RECOMMENDATIONS AND COMMISSION ACTION

- 7.1 After the close of the public comment period, the Agency shall complete a final status report and classification recommendation. SEPA documents will be prepared, as necessary, for the final Agency recommendation for classification. The classification recommendation will be presented to the Commission for adoption. The final species status report, Agency classification recommendation, and SEPA documents will be made available to the public at least 30 days prior to the Commission meeting.
- 7.2 Notice of the proposed Commission action will be published at least 30 days prior to the Commission meeting.

PERIODIC SPECIES STATUS REVIEW

- 8.1 The Agency shall conduct a review of each endangered, threatened, or sensitive wildlife species at least every five years after the date of its classification. This review shall include an update of the species status report to determine whether the status of the species warrants reclassification.
- 8.1.1 The status of all de-listed species shall be reviewed at least once, five years following the date of de-listing.
 - 8.1.2 The status of all emergency listed species shall be reviewed within one year following the date of emergency listing.
 - 8.1.3 The Agency shall notify the public of the periodic status review. This notice shall occur at least one year prior to end of the five year period required by Section 8.1.
- 8.2 The Department shall evaluate the necessity of changing the classification of the species being reviewed. The Agency shall report its findings to the Commission at a Commission meeting. The Agency shall notify the public of its findings at least 30 days prior to presenting the findings to the Commission.
- 8.2.1 If the Director determines that new information suggests that classification of a species should be changed from its present state, the Agency shall initiate classification procedures provided for in these rules starting with Section 5.1
 - 8.2.2 If the Director determines that conditions have not changed significantly and that the classification of the species should remain unchanged, the Director shall recommend to the Commission that the species being reviewed shall retain its present classification status.
- 8.3 Nothing in these rules shall be construed to automatically de-list a species without formal Commission action.

RECOVERY AND MANAGEMENT OF CLASSIFIED SPECIES

- 9.1 The Agency shall write a recovery plan for species classified as endangered or threatened. The Agency will write a management plan for species classified as sensitive. Recovery and management plans shall address the classification criteria described in Sections 3.1 and 3.3, and shall include, but are not limited to:

- 9.1.1 Target population objectives
 - 9.1.2 Criteria for reclassification
 - 9.1.3 An action plan for reaching population objectives which will promote cooperative management and be sensitive to landowner needs and property rights. The plan will include staff time, costs, the roles of public agencies, private industry, and private interest groups, and possible mitigation and/or acquisition needed to achieve recovery objectives.
 - 9.1.4 Public education needs
 - 9.1.5 A monitoring plan, which requires periodic review to allow the incorporation of new information into the status report.
- 9.2 Preparation of recovery and management plans will be initiated by the Agency within one year after the date of classification.
- 9.2.1 Recovery and management plans for species classified prior to 1990 or during the five years following the adoption of these rules shall be completed within 5 years after the date of classification or adoption of these rules, whichever comes later. Development of recovery plans for endangered species will receive higher priority than threatened or sensitive species.
 - 9.2.2 Recovery and management plans for species classified after five years following the adoption of these rules shall be completed within three years after the date of classification.
 - 9.2.3 The Agency will notify the public of the initiation of recovery plan development.
 - 9.2.4 If the deadlines defined in Sections 9.2.1 and 9.2.2 are not met the Department shall notify the public and report the reasons for missing the deadline at a Commission meeting. The intent of this Section is to recognize current Department personnel resources are limiting and that development of recovery plans for some of the species may require significant involvement by interests outside of the Department, and therefore take longer to complete.
- 9.3 The Agency shall provide an opportunity for interested public to comment on the recovery plan and any SEPA documents.

CLASSIFICATION PROCEDURES REVIEW

- 10.1 The Agency and an ad hoc public group shall review these classification procedures six years after the adoption of these rules and report its findings to the Commission.

AUTHORITY

- 11.1 The Commission has the authority to classify wildlife as endangered under RCW 77.12.020. Species classified as endangered are listed under WAC 232-12-014, as amended.
- 11.2 Threatened and sensitive species shall be classified as subcategories of protected wildlife. The Commission has the authority to classify wildlife as protected under RCW 77.12.020. Species classified as protected are listed under WAC 232-12-011, as amended.

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

**WSR 89-24-083
PROPOSED RULES
DEPARTMENT OF WILDLIFE**
[Filed December 6, 1989, 3:22 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-713 1990 Wild turkey seasons; and repealing WAC 232-28-712 1989 Spring turkey seasons and information on spring bear hot spot hunts.

Purpose: To establish 1990 wild turkey seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Same as Purpose.

Reasons Supporting Proposal: Resource management.

Name of Agency Personnel Responsible for Drafting: Tom Juelson, AD, Wildlife Management Division, Olympia, (206) 753-5728; Implementation and Enforcement: Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose and Summary.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: North Thurston School District Administrative Center, 305 College Street N.E., Lacey, WA 98506, on January 19, 1990, at 8:00 a.m.

Submit Written Comments to: Lee S. Smith, Department of Wildlife, 600 Capitol Way North, Olympia, WA, by January 8, 1990.

Date of Intended Adoption: January 19, 1990.

December 6, 1989

Lee S. Smith

Administrative Regulations Officer

NEW SECTION

WAC 232-28-713 1990 WILD TURKEY SEASONS Gobblers and Turkeys with Visible Beards Only.

April 18, 1990 through May 13, 1990 in Asotin, Columbia, Garfield, Kittitas, Skamania, Stevens and Yakima Counties, that part of Chelan County within the following described area: beginning at Kittitas-Chelan County line; then northerly on S.R. 97 to Wenatchee and the Columbia River; then southerly along the Columbia River to the Kittitas County line; and that part of Okanogan County north and west of S.R. 97.

Hunting Hours/Limits:

Bag and Possession Limit: One turkey per calendar year (January 1 to December 31).

Hunting Hours: One-half before sunrise to sunset.

Special Regulations:

1). Wild turkey season is open for shotgun and bow-and-arrow hunting only.

2). A turkey tag is required for hunting wild turkey.

3). Each successful hunter must fill out and return a game harvest report card to the Department of Wildlife within 10 days after taking a turkey. Failure to do so is a misdemeanor punishable by a fine of up to \$250 and/or 90 days in jail.

4). It is unlawful to use dogs to hunt turkeys.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-712 1989 SPRING TURKEY SEASONS AND INFORMATION ON SPRING BEAR HOT SPOT HUNTS

WSR 89-24-084
PERMANENT RULES
DEPARTMENT OF WILDLIFE
(Wildlife Commission)
[Order 409—Filed December 6, 1989, 3:24 p.m.]

Date of Adoption: December 5, 1989.

Purpose: To close GMU 472 (White River) to elk hunting for conservation of the elk herd that winters in GMU 472.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 89-22-135 on November 1, 1989.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The agency for good cause finds an effective date earlier than 31 days after filing is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements would be contrary to the public interest.

Reason for this Finding: The department finds that a conservation closure not later than December 15 is necessary to achieve a 20 percent reduction in harvest.

Effective Date of Rule: December 15, 1989.

December 5, 1989
Curt Smitch
for John McGlenn
Chairman

NEW SECTION

WAC 232-28-21810 AMENDMENT TO 1989 HUNTING SEASONS AND RULES – GMU 472 — WHITE RIVER (KING AND PIERCE COUNTIES)
Notwithstanding the provisions of WAC 232-28-218, effective 12:01 a.m. on December 15, 1989, it is unlawful for any person to hunt or take elk in that part of Game Management Unit 472 (White River) east of Mud Mountain Dam. This is an all citizen closure.

WSR 89-24-085
PERMANENT RULES
DEPARTMENT OF
GENERAL ADMINISTRATION
(Division of Savings and Loan Associations)
[Order 89-3—Filed December 6, 1989, 3:28 p.m.]

I, Betty Reed, supervisor of the Division of Savings and Loan Associations, do promulgate and adopt at Olympia, Washington, the annexed rules relating to credit union field of membership expansion.

This action is taken pursuant to Notice No. WSR 89-22-040 filed with the code reviser on October 27, 1989. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 31.12.045(2), 31.12.115 and 31.12.516 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Supervisor, Division of Savings and Loans, as authorized in RCW 31.12.535.

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 6, 1989.

By Betty Reed
Supervisor

CHAPTER 419-72 WAC **CREDIT UNION FIELD OF MEMBERSHIP EXPANSION**

WAC 419-72-010 – PURPOSE
WAC 419-72-015 – DEFINITIONS
WAC 419-72-020 – EXPANSION OF A GROUP WITH A COMMON BOND OF OCCUPATION
WAC 419-72-025 – APPLICATION
WAC 419-72-030 – CONSOLIDATION
WAC 419-72-035 – OTHER INFORMATION
WAC 419-72-040 – OVERLAP JUSTIFICATION
WAC 419-72-045 – EXPANSION OF A GROUP WITH A COMMON BOND OF ASSOCIATION
WAC 419-72-050 – APPLICATION
WAC 419-72-055 – OTHER INFORMATION
WAC 419-72-060 – EXPANSION OF A GROUP WITH A COMMON BOND OF COMMUNITY
WAC 419-72-065 – APPLICATION
WAC 419-72-070 – APPLICATION DEEMED COMPLETE
WAC 419-72-075 – APPROVAL
WAC 419-72-080 – SPECIAL CIRCUMSTANCES
WAC 419-72-090 – ADOPTION OF FORM
WAC 419-72-095 – APPENDIX I

NEW SECTION

WAC 419-72-010 PURPOSE. This chapter is adopted by the supervisor for the purpose of establishing the application process for a credit union to expand its field of membership to include a separate group with a common bond of occupation, association, or community which each have a common bond.

NEW SECTION

WAC 419-72-015 DEFINITIONS. Unless the context clearly requires otherwise, as used in this chapter:

(1) "Common bond of Occupation" has the same meaning as in WAC 419-70-030

(2) "Common bond of Association" has the same meaning as in WAC 419-70-040

(3) "Common bond of Community" has the same meaning as in WAC 419-70-050

(4) "Credit Union" means a credit union organized and operating under Chapter 31.12 RCW.

NEW SECTION

WAC 419-72-020 EXPANSION OF A GROUP WITH A COMMON BOND OF OCCUPATION. If a credit union wants to include a separate group with a common bond of occupation in its field of membership it shall make application to the supervisor to amend Article III of its bylaws as set forth in RCW 31.12.115. The amendment shall be in a form as set forth in WAC 419-

72-095 and shall be submitted to the supervisor in duplicate along with an application as described in WAC 419-72-025.

NEW SECTION

WAC 419-72-025 APPLICATION. The application to include a separate group with a common bond of occupation shall include at least the following information:

- (1) The name of the credit union;
- (2) Evidence that the board of directors of the credit union has complied with the notice and voting requirements of RCW 31.12.115;
- (3) A description of the enterprise including its name, number of employees, the geographic location of those employees, and the degree of employee support to be made available, i.e., payroll deduction, access to employer premises. If other related individuals specified in WAC 419-70-030 are included, they must be separately identified;
- (4) A statement from the enterprise's managing officer that the enterprise desires membership for its employees in the applicant credit union and that they are not currently eligible for membership in an existing credit union, either state or federally chartered, because of their employment. If the employees of the enterprise are eligible for membership in another credit union the applicant credit union must provide a statement of non-objection from the other credit union;
- (5) A copy of the applicant credit union's most recent financial statement;
- (6) A copy of the applicant credit union's business plan or other document demonstrating the credit union's ability and intent to provide service to the new group and specific plans relating anticipated growth to capital levels.

Upon receipt of the above application, the supervisor may request such additional information as is necessary to clarify the application.

NEW SECTION

WAC 419-72-030 CONSOLIDATION. If a credit union submits multiple bylaw amendments either simultaneously or within the same six month period, the requirements of subsection (5) and (6) of WAC 419-72-025 can be satisfied by reference to the first application submitted during the semi-annual period.

NEW SECTION

WAC 419-72-035 OTHER INFORMATION. If a separate group with a common bond of occupation exceeds 700 individuals, the applicant credit union shall provide the following additional information with its application:

- (1) An analysis that explains why the group does not have sufficient size or resources to form a credit union of its own;
- (2) Documentation that the applicant credit union is serving its current field of membership or has plans in place to do so within a reasonable period of time;

(3) Documentation that the applicant credit union has given written notice to all other credit unions, both state and federally chartered, doing business in the county in which the applicant credit union is located.

NEW SECTION

WAC 419-72-040 OVERLAP JUSTIFICATION. If a credit union cannot obtain the letter of non-objection required in subsection (4) of WAC 419-72-025, after having made a best efforts attempt to do so, it may submit documentation that:

- (1) At least 30% of the employees of the enterprise desire membership in the applicant credit union, or
- (2) The other credit union has failed to adequately serve the group after a reasonable period of time, and
- (3) How the applicant credit union plans to improve that service.

A copy of the information required in subsections (1), (2), and (3) above will be supplied to the other credit union. That credit union will be given 60 days during which to respond or raise objections to the overlap.

Overlaps will be approved if approval is consistent with WAC 419-72-075 and at least 30% of the employees of the enterprise desire membership in the applicant credit union; or if, in the opinion of the supervisor, (a) the other credit union is not adequately serving the group, (b) the group itself desires membership in the applicant credit union and (c) the applicant credit union has reasonable plans to do so. More consideration will be given to the quality of service rather than variety of services.

Overlaps will not be granted if the result, in the opinion of the supervisor, might reasonably threaten the viability of the other credit union.

This section is intended to establish procedures to deal with unavoidable conflicts; it is not intended to encourage overlaps. Overlaps will not be granted if, in the opinion of the supervisor, an applicant credit union is using this section as a marketing device.

NEW SECTION

WAC 419-72-045 EXPANSION OF A GROUP WITH A COMMON BOND OF ASSOCIATION. If a credit union wants to include a separate group with a common bond of association into its field of membership it shall make application to the supervisor to amend Article III of its bylaws as set forth in RCW 31.12.115. The amendment shall be in a form as set forth in WAC 419-72-095 and shall be submitted to the supervisor in duplicate along with an application as described in WAC 419-72-050.

NEW SECTION

WAC 419-72-050 APPLICATION. The application to include a separate group with a common bond of association shall contain at least the following information:

- (1) The name of the credit union;
- (2) Evidence that the board of directors of the credit union has complied with the notice and voting requirements of RCW 31.12.115;

(3) A detailed description of the group including its charter or articles of incorporation, its bylaws, the qualifications and requirements for membership, and the number and geographic location of its current members;

(4) A resolution from the petitioning group's governing body that the members of the group are not currently eligible for membership in an existing credit union and have been informed of the proposal to affiliate with the applicant credit union and that those members desire to be associated with the applicant credit union and are willing to support its objectives;

(5) A statement by the applicant credit union that its marketing efforts will be directed toward active members of the group and that the group will not be used as vehicle to create eligibility for credit union membership to the general public;

(6) A copy of the applicant credit union's most recent financial statement;

(7) A copy of the applicant credit union's business plan or other document demonstrating the credit union's ability and intent to provide service to the new group and specific plans relating anticipated growth to capital levels.

Upon receipt of the above application the supervisor may request such other information as is necessary to clarify the application.

NEW SECTION

WAC 419-72-055 OTHER INFORMATION. If group has more than 700 members the applicant credit union shall provide the following additional information to the supervisor with its application:

(1) Documentation that explains why the group does not have sufficient size or resources to form a credit union of its own. A statement from the group that it lacks sufficient size or its resources are not sufficient to satisfy this requirement;

(2) Documentation that the applicant credit union is actively serving its current field of membership or has plans in place to do so within a reasonable period of time;

(3) Documentation that the applicant credit union has given written notice to all other credit unions, both state and federally chartered, doing business in the county in which the applicant credit union is located.

NEW SECTION

WAC 419-72-060 EXPANSION OF A GROUP WITH A COMMON BOND OF COMMUNITY. If a credit union wants to include a group with a common bond of community into its field of membership it shall make application to the supervisor to amend Article III of its bylaws as set forth in RCW 31.12.115. The amendment shall be in a form as set forth in WAC 419-72-095 and shall be submitted to the supervisor in duplicate along with an application as described in WAC 419-72-065.

NEW SECTION

WAC 419-72-065 APPLICATION. The application to include a community shall contain at least the following information:

(1) The name of the credit union;

(2) Evidence that the board of directors of the credit union has complied with the notice and voting requirements of RCW 31.12.115;

(3) A detailed description of the community, neighborhood or rural district including a map setting forth the geographic boundaries of the community and the current population of the proposed community;

(4) Documentation satisfactory to the supervisor describing how the proposed community meets the definition of Common Bond as set forth in WAC 419-70-050;

(5) Documentation satisfactory to the supervisor that the community does not have adequate credit union financial services available to it;

(6) Letters of support from community organizations and/or residents of the area demonstrating their desire to be associated with the applicant credit union and their willingness to support its objectives;

(7) Any other information that demonstrates the community's desire to have the services of a community based credit union;

(8) A copy of the applicant credit union's most recent financial statement;

(9) A copy of the applicant credit union's business plan or other document demonstrating the credit union's ability and intent to provide service to the new group and specific plans relating anticipated growth to capital levels. The plan should include active participation in community activities;

(10) A copy of the credit union's current loan underwriting standards describing adequate safeguards for its lending activities;

(11) Evidence that the applicant credit union has given written notice to all other credit unions, both state and federally chartered, doing business in the county in which the applicant credit union is located.

Upon receipt of the above application the supervisor may request such other information as necessary to clarify the application.

NEW SECTION

WAC 419-72-070 APPLICATION DEEMED COMPLETE. An application to expand its field of membership shall be deemed complete when the supervisor has received the information required in this chapter except when the applicant credit union is required to give notice to other credit unions. Such an application will not be deemed complete until at least 30 days from the date such notification was given. When an application involves an overlap dispute, such application will not be deemed complete until 60 days from the date that information required in WAC 419-72-040 has been supplied to the affected credit union. If an application is received that is not complete the supervisor will give written notice to the credit union that further information is necessary no later than 30 days from the date the original application was received.

NEW SECTION

WAC 419-72-075 APPROVAL. The supervisor shall give written approval or denial of a request made in conformance with this regulation within 30 days from the date it is deemed complete. The supervisor's decision will be based on the following general criteria:

(1) The application is consistent with the provisions of Chapter 31.12 RCW and this regulation;

(2) The credit union is currently operating in conformance with the provisions of RCW 31.12, applicable rules in WAC 419, and written supervisory orders, directives and agreements;

(3) The proposed new group possesses a common bond as defined in WAC 419-70. The strongest consideration will be given to groups on the lowest organizational level;

(4) The application is economically feasible and advisable;

(5) The proposed new group does not have sufficient size or resources to form a credit union of its own;

(6) The proposed new group is composed of individuals who work or reside within a reasonable distance from an operating office of the applicant credit union;

(7) The applicant credit union is financially sound and possesses the financial resources and management capability to provide credit union service to the proposed group in a safe and sound manner;

(8) The applicant credit union is providing adequate service to its existing eligible membership or has plans to do so in a reasonable time period;

(9) The proposal will make credit union service available to individuals who wish to have it;

(10) Approval of the request will not create a financial hardship on another credit union or threaten its viability.

Approval of a request for a group with a common bond of community will be based on the following additional general criteria:

(1) The geographic boundaries of the proposed community, set it off as distinct and recognizable;

(2) The common bond of community is the most viable common bond available to provide credit union services to the residents or workers in the subject area;

(3) The proposed community has a total population of 60,000 or less.

NEW SECTION

WAC 419-72-080 SPECIAL CIRCUMSTANCES. An applicant credit union may request that one or more of the provisions of this regulation be waived if an emergency exists which requires immediate expansion in order to preserve the viability of the applicant credit union. The request for waiver may be granted if, in the opinion of the supervisor, the expansion request has a reasonable probability of remedying an emergency situation or is otherwise in the public interest.

NEW SECTION

WAC 419-72-090 ADOPTION OF FORM. The Division of Savings and Loan Associations hereby adopts for use by all credit unions requesting approval of

amendments to its bylaws, the form attached hereto as WAC 419-72-095, entitled "Request for Bylaw Amendment."

NEW SECTION

WAC 419-72-095 APPENDIX I—REQUEST FOR BYLAW AMENDMENT.

"Request for Bylaw Amendment"

AMENDMENT TO BYLAWS NO. _____

THIS IS TO CERTIFY: That at a meeting called for that purpose the following amendment to the bylaws of the _____ Credit Union was adopted on _____ by the Board of Directors in accordance with the provisions of RCW 31.12.115.

* ARTICLE _____ SECTION _____ :

AMENDED TO READ: ARTICLE _____ SECTION _____ :

Signed this _____ day of _____, 19____

ATTEST:

Chairman/President

Secretary

The foregoing amendment of the Bylaws approved this _____ day of _____, 19____

Supervisor, Division of Savings
and Loan Associations, having
supervision of Credit Unions.

* Insert section as it now reads.

**WSR 89-24-086
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**
[Filed December 6, 1989, 3:30 p.m.]

Original Notice.

Title of Rule: WAC 388-99-030 Allocation of excess income—Spenddown.

Purpose: To change spenddown rules to allow hospital bills incurred during the base period to be considered before other medical bills.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: To change spenddown rules to allow hospital bills incurred during the base period to be considered before other medical bills.

Reasons Supporting Proposal: This rule is necessary to change spenddown policy.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bobbe Andersen, Medical Assistance, 753-0529.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on January 9, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by January 9, 1989 [1990].

Date of Intended Adoption: January 31, 1990.

December 6, 1989

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2798, filed 5/17/89)

WAC 388-99-030 ALLOCATION OF EXCESS INCOME—SPENDDOWN. (1) On initial or subsequent applications, the department shall deduct previously incurred medical expenses from the applicant's excess countable income subject to the following restrictions:

(a) The medical expense shall be a current liability:

(i) Of the applicant or financially responsible relative in the same household; or

(ii) Subject to payment during or after the base period, by a public program of the state, county, or city other than Medicaid.

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

(c) The department shall not consider toward spenddown the portion of the medical expense paid or covered by third-party liability.

(i) The department shall disregard the possible payment as a resource and allow the entire expense for spenddown when a health insurer fails to send either payment or notice of the portion of a medical services bill covered within forty-five days of the date of service or thirty days from the last day of the base period, whichever is sooner.

(ii) When Medicare is the only insurance available and the applicant is hospitalized for the first time in a calendar year and the client still owes the bill, the department shall allow the Medicare deductible toward the spenddown.

(d) The department shall consider toward spenddown a medical expense incurred and paid for:

(i) By the applicant during the base period; or

(ii) Subject to payment by a public program of the state, county, or city other than Medicaid; and

(e) The department shall consider only medical services provided by practitioners recognized under state law.

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

(3) If the incurred medical bills are less than the excess countable income, the department shall not approve the application and shall require the applicant to spenddown the remaining excess countable income. The department shall certify the applicant eligible only when excess countable income has been completely spentdown. The department shall deduct medical expenses incurred during the spenddown period in the following order:

(a) Medicare and other health insurance premiums, deductibles, co-insurance charges, enrollment fees, or copayments;

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

(c) Expenses for necessary medical and remedial care covered by the limited casualty program which the applicant or a public program of the state, county, or city other than Medicaid has paid; ((and))

(d) Inpatient or outpatient hospital expenses for necessary medical and remedial care covered((, but not yet paid for)) by the limited casualty program, but remaining an applicant's liability; and

(e) Expenses for necessary medical and remedial care other than in-patient or outpatient hospital expenses covered by the limited casualty program, but remaining an applicant's liability.

(4) The applicant shall provide the department with complete documentation of incurred medical expenses within thirty days of the end of the base period. Once the applicant's medical eligibility is approved, the department shall not consider expenses either not listed or omitted. The applicant may use such expenses to reduce excess countable income on a subsequent application provided:

(a) The expenses incurred before the certification date meet the conditions in subsection (1) of this section; and

(b) Medical care or supplies received and paid for, on or after the certification date and before receiving medical coupons, meet the conditions in subsections (1)(b), (c), (d), and (e) of this section.

(5) The applicant is liable for any expenses incurred before the date the applicant is eligible.

WSR 89-24-087

NOTICE OF PUBLIC MEETINGS

COMMISSION ON JUDICIAL CONDUCT

[Memorandum—December 5, 1989]

MEETING SCHEDULE FOR 1990

Date	Place	Time
January 5, 1990	West Coast Sea-Tac Hotel 18220 Pacific Highway South Seattle, WA 98188	2:00 p.m.
February 2, 1990	West Coast Sea-Tac Hotel 18220 Pacific Highway South Seattle, WA 98188	2:00 p.m.
March 2, 1990	Ramada Inn 18118 Pacific Highway South Seattle, WA 98188	2:00 p.m.
April 6, 1990	West Coast Sea-Tac Hotel 18220 Pacific Highway South Seattle, WA 98188	2:00 p.m.
May 4, 1990	West Coast Sea-Tac Hotel 18220 Pacific Highway South Seattle, WA 98188	2:00 p.m.
June 1, 1990	West Coast Sea-Tac Hotel 18220 Pacific Highway South Seattle, WA 98188	2:00 p.m.
August 3, 1990	West Coast Sea-Tac Hotel 18220 Pacific Highway South Seattle, WA 98188	2:00 p.m.
September 7, 1990	West Coast Sea-Tac Hotel 18220 Pacific Highway South Seattle, WA 98188	2:00 p.m.
October 5, 1990	To be determined	2:00 p.m.
November 2, 1990	West Coast Sea-Tac Hotel 18220 Pacific Highway South Seattle, WA 98188	2:00 p.m.
December 7, 1990	West Coast Sea-Tac Hotel 18220 Pacific Highway South Seattle, WA 98188	2:00 p.m.

WSR 89-24-088

RULES COORDINATOR

COMMISSION ON JUDICIAL CONDUCT

[Filed December 6, 1989, 3:35 p.m.]

As required under RCW 34.05.310(3), the Commission on Judicial Conduct has designated Esther Garner as rules coordinator. The office and mailing address is P.O. Box 1817, EW-14, Olympia, Washington 98507, (206) 753-4585.

Wesley A. Nuxoll
Chairperson

WSR 89-24-089
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
(Noxious Weed Control Board)
[Memorandum—December 1, 1989]

The 1990 regular meeting schedule for the Washington State Noxious Weed Control Board is shown below. Meetings will be held in Ellensburg unless otherwise arranged and published.

January 17, 1990
March 21, 1990
May 16, 1990
July 18, 1990
September 19, 1990
November 21, 1990

WSR 89-24-090
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
[Filed December 6, 1989, 3:45 p.m.]

Date of Adoption: December 6, 1989.

Purpose: To detect, identify, eradicate and control noxious weeds which pose a serious threat to Washington agricultural industry, the public and the environment.

Citation of Existing Rules Affected by this Order:
Amending chapter 16-752 WAC.

Statutory Authority for Adoption: Chapter 17.10 RCW.

Pursuant to notice filed as WSR 89-21-064 on October 17, 1989.

Changes Other than Editing from Proposed to Adopted Version: Legal description of quarantine area added.

Effective Date of Rule: Thirty days after filing.

December 6, 1989
C. Alan Pettibone
Director

NEW SECTION

WAC 16-752-300 ESTABLISHING QUARANTINE. Yellow nutsedge (*Cyperus esculentus L.*) is a herbaceous perennial that is one of the most serious noxious weeds of agronomic crops. It propagates by seed, rhizomes, bulbs, and nutlets. Soil containing nutlets is the primary mode of spread in cultivated land. It is highly invasive and its unchecked spread would entail great economic loss to the agricultural industries of the state. It is a class B noxious weed designated for control in Cowlitz County (WAC 16-750-011(27)). Yellow nutsedge has infested two dredging spoil sites at the Port of Kalama in Kalama, Washington. Movement of material from these sites has initiated additional infestations. RCW 17.10.210 provides that either the director or the county noxious weed control board or a weed district may issue an order for quarantine and restriction or denial of access to land determined to be so

seriously infested that control measures cannot be undertaken without quarantine of the land. The director has determined:

- (1) That the identified sites are so seriously infested as to require quarantine; and
- (2) That the movement of contaminated materials from these sites presents an immediate threat of infestation to the rest of the county agricultural and nonagricultural areas; and
- (3) That the restriction of such spread is critical to control efforts.

NEW SECTION

WAC 16-752-305 QUARANTINE AREA. The quarantine area shall encompass two dredge spoil sites at and owned by the Port of Kalama, located along Hendrickson Drive, Kalama, Washington, and more particularly described as follows:

The following described real estate, situated in the county of Cowlitz, state of Washington:

Parcel 1 – containing twenty-three acres, more or less.

A tract of land in the Jacob Ahles D.L.C. No. 44 in Section 20, Township 6 north, Range 1 west of the Willamette Meridian, more particularly described as follows:

Beginning at a point on the north line of a tract of land leased to the North Pacific Grain Growers, Inc., said point being north 2374.49 feet, and north 88 degrees 46'22" west parallel with the south line of said Ahles D.L.C., 263.94 feet from the southeast corner of said Section 20; thence north 1 degree 12'00" west 612.50 feet; thence north 20 degrees 23'00" west 186.52 feet to a point 30.00 feet westerly when measured at right angles from the westerly line of the Northern Pacific Railway right of way; thence parallel with and 30.00 feet from said right of way north 37 degrees 24'37" west 1325.90 feet; thence south 61 degrees 05'28" west 344.47 feet to the inner harbor line as shown on the Plat of Kalama Tidelands; thence south 27 degrees 54'56" east along said inner harbor line 1045.78 feet to the one mile limit as shown on said plat; thence south 62 degrees 05'04" west 100 feet to the low water line of the Columbia River; thence south 22 degrees 48'46" east along said low water line 751.17 feet to said north line of the North Pacific Grain Growers, Inc. lease; thence south 88 degrees 46'22" east parallel with said south line of the Ahles D.L.C. 492.48 feet to the true point of beginning.

Parcel 2 – containing 2.46 acres, more or less.

A tract of land in the Jacob Ahles D.L.C. No. 44 in Section 20, Township 6 north, Range 1 west of the Willamette Meridian, and more particularly described as follows:

Beginning at the intersection of the easterly extension of the north line of a tract of land leased to North Pacific Grain Growers, Inc., with a line 30.00 feet westerly, when measured at right angles, from the westerly line of the Northern Pacific Railway right of way, said point being north 2374.49 feet and north 88 degrees 46'22" west parallel with the south line of said Ahles D.L.C. 2090.78 feet from the southeast corner of said Section

20. These are designated as "KS-1" and "KS-2," Section 20, T6N, R1W WM, Warranty Deed No. 850805007, Vol. 989, pages 1010-1012, Parcel No. 60050200.

NEW SECTION

WAC 16-752-310 ARTICLES WHOSE MOVEMENT IS RESTRICTED. The movement of all plants and parts of plants of yellow nutsedge and soil contaminated with propagules (nutlets or seeds) of the plant, is covered by this quarantine.

NEW SECTION

WAC 16-752-315 REGULATIONS. Use of the properties identified in WAC 16-752-305 is restricted as follows:

(1) All removal of sand or soil from the quarantine locations is prohibited without a permit from the Cowlitz County noxious weed control board that details the end use and exact geographic destination.

(2) All land disturbing operations including excavation, utilities work, and similar activities requires a one time, no fee permit from the weed board that obligates the operator to thoroughly hose down all equipment before leaving the quarantine area and record the next two areas where the equipment is used after leaving the quarantine area.

(3) All off-road vehicles are banned in the quarantine area without the written permission of the Cowlitz County noxious weed control board, except in designated parking areas.

(4) All weed control measures in the quarantine area are to be undertaken in consultation with the Cowlitz County noxious weed control board.

(5) Yellow nutsedge control shall take precedence over all other land uses in the quarantine area.

NEW SECTION

WAC 16-752-320 COSTS OF QUARANTINE.

The costs of serving the notice required by RCW 17.10.210(2) shall be borne by the department. The costs of control work shall be borne by the landowner unless otherwise determined by the Cowlitz County noxious weed control board or the director in consultation with the Washington state noxious weed control board.

NEW SECTION

WAC 16-752-325 DURATION. This quarantine shall be effective until October 15, 1990, and shall expire unless renewed by the director.

NEW SECTION

WAC 16-752-330 VIOLATION AND PENALTY. Any person who violates this quarantine shall have committed a civil infraction and shall be subject to the provisions of RCW 17.10.350 and WAC 16-750-900(3) which provides a monetary penalty of up to one thousand dollars per infraction.

WSR 89-24-091
NOTICE OF PUBLIC MEETINGS
HOUSING FINANCE COMMISSION
 Memorandum—December 6, 1989]

The Washington State Housing Finance Commission will hold an open public hearing on Thursday, January 18, 1990, at 2:30 p.m. in the Conference Room of Foster, Pepper, Shefelman, 1111 Third Avenue, 24th Floor, Seattle, Washington, for the purpose of considering a proposed Washington state housing finance plan for 1990-1991.

The state housing finance plan provides the general policies of the commission and specific policies with regard to the programs of the commission. The plan outlines the manner in which the commission intends to issue bonds during the period in accordance with the goals and objectives of the plan.

The commission is encouraging public comment on the proposed housing finance plan. Interested parties and individuals are encouraged to send written comments to the commission at the address provided below or to attend the public hearing. A copy of the proposed document may be obtained by telephone or written request to the commission and will be available at the commission office as of December 18, 1989. Written comments received on or before January 17, 1990, will be considered by the commission and verbal testimony on the proposed documents will be accepted at the public hearing on January 18, 1990, at the above address. Depending upon the number of persons wishing to provide verbal testimony at the hearing, the commission reserves the right to limit the time each speaker may comment to two minutes or less.

For purposes of providing written comments, the address of the commission is: Mr. Kim Herman, Executive Director, Washington State Housing Finance Commission, 1111 Third Avenue, Suite 2240, Seattle, Washington 98101.

WSR 89-24-092
PROPOSED RULES
CENTRALIA COLLEGE
 [Filed December 6, 1989, 3:56 p.m.]

Original Notice.

Title of Rule: Chapter 132L-280 WAC, Student records policy; and repealing WAC 132L-20-090 Student records.

Purpose: To be in compliance with the Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and its implementing regulation (34 C.F.R. Sec. 99).

Statutory Authority for Adoption: RCW 28B.50.140(13).

Statute Being Implemented: U.S.C. Sec. 1232g.

Summary: Centralia College is required to insure confidentiality of student records and to govern the release of personally identifiable information contained within education records.

Reasons Supporting Proposal: To comply with the Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Alice Forth, Dean of Students, Student Services Building, 736-9391.

Name of Proponent: Centralia College, public.

Rule is necessary because of federal law, 20 U.S.C. Sec. 1232g.

Explanation of Rule, its Purpose, and Anticipated Effects: Centralia College implements the student records policy in compliance with the Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and its implementing regulation (34 C.F.R. Sec. 99). Briefly, Centralia College is required to provide students with access to their own education records, to permit students to challenge their records on the grounds that they are inaccurate, misleading, or otherwise in violation of the student's privacy or other right, to obtain written consent before releasing certain information and to notify students of these rights.

Proposal Changes the Following Existing Rules: Repeals WAC 132L-20-090 Student records, policy and procedures have been defined and clarified in WAC 132L-280-020 Annual notification of rights, 132L-280-050 Limits on rights to review and inspect and obtain copies of education records, 132L-280-060 Record of requests and disclosures, 132L-280-080 Requests for corrections, hearings, adding statements to education records, 132L-280-090 Fees for copies and 132L-280-110 Type and location of education records.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Centralia College, Administration Building Boardroom, #122, on February 8, 1990, at 4:30 p.m.

Submit Written Comments to: Jack Kalmbach, Dean of Administration, by January 22, 1990.

Date of Intended Adoption: February 8, 1990.

December 1, 1989

Jack R. Kalmbach
Dean of Administration

**CENTRALIA COLLEGE, DISTRICT 12
CHAPTER 132L-20-090
STUDENT RECORDS POLICY**

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132L-20-090 Student Records Policy.

**CENTRALIA COLLEGE, DISTRICT 12
CHAPTER 132L-280
STUDENT RECORDS POLICY**

NEW SECTION

WAC 132L-280-010 GENERAL POLICY. Centralia College implements the policy contained in this chapter in compliance with the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and its implementing regulation (34 C.F.R. § 99). Briefly, Centralia College is required to provide students with access to their own education records, to permit students to challenge their records on the grounds that they are inaccurate, misleading, or otherwise in violation of the student's privacy or other right, to obtain written consent before releasing certain information and to notify students of these rights.

NEW SECTION

WAC 132L-280-015 DEFINITIONS. For the purposes of this policy, the following definitions of terms apply: (1) "Student" means any individual who is or has been in attendance at Centralia College and for whom the college maintains education records.

(2) "Education records" are defined as those records, files and documents (in handwriting, print, tapes, film, microfiche or other medium) maintained by Centralia College which contain information directly related to the individual student. Education records include only the following:

(a) Records pertaining to admission, advisement, registration, grading, and progress toward a degree that are maintained by the registrar.

(b) Testing information used for advisement purposes by the counseling center.

(c) Information concerning payment of fees as maintained by the registrar.

(d) Financial aid information as collected by the financial aid office.

(e) Information regarding students participating in student government or athletics that is maintained by the student programs office or the athletics office.

(3) "Directory Information" means the student's name, address, telephone number, date and place of birth, major field of study, eligibility for and participation in officially recognized activities, organizations, and sports, weight and height of members of athletic teams, dates of attendance, honor roll, degrees and awards received, and the most recent previous educational agency or institution attended by the student. Directory information may be disclosed at the discretion of the college and without the consent of the student unless he or she elects to prevent disclosure as provided for in WAC 132L-28-070.

(4) "Written consent" means a written authorization for disclosure of student education records which is:

(a) signed,

(b) dated,

(c) which specifies the records to be disclosed,

(d) which specifies to whom disclosure is authorized.

(5) "Personally identifiable" means data or information which includes: the name of the student, the student's parent(s), or other family members; a personal identifier such as the student's social security number or student number; a list of personal characteristics which would make the student's identity easily traceable.

NEW SECTION

WAC 132L-280-020 ANNUAL NOTIFICATION OF RIGHTS. Centralia College shall notify students of their rights under the Family Educational Rights and Privacy Act of 1974 by publication in the college catalog and to new students during the registration process. The college shall make available upon request a copy of the policy governing release of student records. In addition, the college shall post at conspicuous places on the campus information regarding the existence of this policy and of the availability of copies.

[NEW SECTION]

WAC 132L-280-030 PROCEDURE TO INSPECT EDUCATION RECORDS. (1) Students may inspect and review their education records upon request to the appropriate college official as designated in WAC 132L-280-110.

(2) Students must submit to the appropriate college official a written request which identifies as precisely as possible the record or records he or she wishes to inspect.

(3) The appropriate college official will make the needed arrangements for access as promptly as possible and notify the student of the time and place where the records may be inspected. Access must be given in 45 days or less from the receipt of the request.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

NEW SECTION

WAC 132L-280-040 DISCLOSURE OF EDUCATION RECORDS. (1) Disclosure of Education Records. In addition to "directory information" the college may, at its discretion, make disclosures from education records of students to the following listed parties:

(a) College officials including college administrative and clerical staff, faculty, and students where officially elected or appointed to the Associated Students of Centralia College senate or employed by the

college. Access or release of records to the above is permissible only when the information is required for advisement, counseling, record keeping, reporting, or other legitimate educational interest consonant with their specific duties and responsibilities.

(b) To officials of another school in which the student seeks or intends to enroll.

(c) To authorized federal, state, or local officials as required by law.

(d) In connection with financial aid for which the student has applied or received.

(e) To appropriate parties in a health or safety emergency.

(f) To accrediting organizations to carry out their functions.

(g) To parents of an eligible student who claim the student as a dependent for income tax purposes.

(h) To comply with a judicial order or a lawfully issued subpoena.

(2) The college shall not permit access to or the release of education records or personally-identifiable information contained therein, other than "directory information," without the written consent of the student, to any party other than the above.

(3) Education records released to third parties shall be accompanied by a statement indicating that the information cannot be subsequently released in a personally identifiable form to other parties without obtaining the consent of the student. The college is not precluded from permitting third party disclosures to other parties listed in (a) through (h) of this subsection.

NEW SECTION

WAC 132L-280-050 LIMITS ON RIGHTS TO REVIEW AND INSPECT AND OBTAIN COPIES OF EDUCATION RECORDS. (1) When a record contains information about more than one student, the student may inspect and review only the records which relate to him.

(2) Centralia College reserves the right to refuse to permit a student to inspect the following records:

(a) The financial statement of the student's parents.

(b) Letters and statements of recommendation for which the student has waived his or her right of access, or which were placed in file before January 1, 1975.

(c) Records connected with an application to attend Centralia College if that application was denied.

(d) Those records which are excluded from the Federal Rights and Privacy Act definition of education records.

(3) Centralia College reserves the right to deny transcripts or copies of records not required to be made available by the Federal Educational Rights and Privacy Act in any of the following situations:

(a) The student has an unpaid financial obligation to the college.

(b) There is an unresolved disciplinary action against the student.

NEW SECTION

WAC 132L-280-060 RECORD OF REQUEST AND DISCLOSURES. (1) The college shall maintain a record of requests for and disclosures of personally identifiable information in the education records of each student. The record maintained under this section shall be available for inspection and review as provided in WAC 132L-280-050.

(2) The college shall maintain the record with the education records of the student as long as the records are maintained.

(3) The record must include:

(a) The names of parties who have received personally-identifiable information,

(b) The legitimate interest the parties had in requesting or obtaining the information,

(c) The names and legitimate interests of additional parties to which the reviewing educational agency or institution may disclose or redisclose the information.

(4) The following parties may inspect the record of requests and disclosures relating to a student:

(a) The student,

(b) The college officials who are responsible for the custody of the records,

(c) Persons authorized to audit the record keeping procedures of the college.

(5) The college is not required to maintain a record if the request was from, or the disclosure was to:

(a) The student,

(b) A school official,

(c) A party with written consent from the student, or

(d) A party seeking directory information.

NEW SECTION

WAC 132L-280-070 DISCLOSURE OF DIRECTORY INFORMATION. Directory information may be disclosed at the discretion of the college and without the consent of the student unless the student elects to prevent disclosure by filing a written request with the registrar to prevent disclosure. The request shall continue in effect according to its terms unless revoked in writing by the student.

NEW SECTION

WAC 132L-280-080 REQUESTS FOR CORRECTIONS, HEARINGS, ADDING STATEMENTS TO EDUCATION RECORDS. Students have the right to request to have records corrected that they believe are inaccurate, misleading, or in violation of their privacy rights. Following are the procedures for the correction of records:

(1) A student must submit a written request to amend his or her education record to the appropriate college official responsible for the custody of the record as designated in WAC 132L-280-110. The request must identify the part of the record he/she wants changed and specify why the record is believed to be inaccurate, misleading or in violation of his or her privacy or other rights.

(2) A student whose request for amendment of his or her education record has been denied may request a hearing by submitting a written request to the Dean of Students within 10 days following the denial. The written request must be signed by the student and shall indicate the reasons why the records should be amended. The Dean of Students shall notify the student of the hearing within 30 days after receipt of a properly filed request. In no case will the notification be less than 10 days in advance of the date, time and place of the hearing.

(3) The hearing shall be a brief adjudicative proceeding as provided in RCW 34.05.482 and RCW 34.05.485 through 34.05.494 and shall be conducted by the student services or other appropriate committee (the chair of the committee shall be an official of the college who does not have a direct interest in the outcome of the hearing). At the hearing, the student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's education records. The student may be assisted by one or more individuals, including an attorney.

(4) The student services or other appropriate committee will prepare a written decision, within 30 days after the conclusion of the hearing, based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reasons for the decision. A copy of the decision shall be made available to the student.

(5) If the student services or other appropriate committee decides the information is inaccurate, misleading, or in violation of the student's right of privacy, the custodian of the record will amend the record and notify the student, in writing, that the record has been amended.

(6) If the student services or other appropriate committee decides that the challenged information is not inaccurate, misleading, or in violation of the student's right of privacy, the committee will notify the student in writing that the student has a right to place in the record a rebuttal statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision.

(7) The student's rebuttal statement will be maintained as part of the student's education records as long as the contested portion is maintained. If the contested portion of the education record is disclosed, the statement will also be disclosed.

NEW SECTION

WAC 132L-280-090 FEES FOR COPIES. Copies of student records shall be made at the expense of the requesting party at actual cost for copying as posted at the Admissions/Records Office.

NEW SECTION

WAC 132L-280-100 WAIVER. A student may waive any of his or her rights under this chapter by submitting a written, signed, and dated waiver to the office of the registrar. Such a waiver shall be specific as to the records and persons or institutions covered. A waiver shall continue in effect according to its terms unless revoked in writing which is signed and dated.

NEW SECTION**WAC 132L-280-110 TYPE AND LOCATION OF EDUCATION RECORDS.**

Types	Location	Custodian
Admission Records, Cumulative Academic Records, Testing Records, Registration and Payment of Tuition Records	Student Services Center	Director of Admissions & Records
Student Government Participation Records	Student Services Center	Director of Student Programs
Financial Aid Records, Student Employment Aid Records	Student Services Center	Director of Financial
Athletic Participation Records	Gym	Athletic Director

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

NEW SECTION**WAC 132L-280-120 REMEDY FOR STUDENTS PROTECTED BY THIS ACT.** A student may file a written complaint with the U.S. Department of Education regarding an alleged violation of the Federal Education Rights and Privacy Act. The address is:

Family Policy and Regulations Office
U.S. Department of Education
Washington, D.C. 20202

WSR 89-24-093
PROPOSED RULES
CENTRALIA COLLEGE
[Filed December 6, 1989, 4:01 p.m.]

Original Notice.

Title of Rule: WAC 132L-133-020, Organization—Operation—Information; and chapter 132L-108 WAC, Practice and procedure.

Purpose: To comply with new APA requirements.

Statutory Authority for Adoption: RCW 28B.50.140(13), 34.05.220 and 34.05.250.

Statute Being Implemented: Chapter 34.05 RCW.

Summary: Provides information about the organization, its operating hours and locations of educational offerings. Adopts model rules of procedure and rules for appointment of presiding officers for adjudicative proceedings and provides adjudicative procedure information.

Reasons Supporting Proposal: See Purpose.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jack Kalmbach, Dean of Administration, Administration Building, 736-9391.

Name of Proponent: Centralia College, public.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Implemented to comply with new APA requirements, this rule provides information about the organization and operation of Centralia College, its practices and procedures.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Centralia College, Administration Building Boardroom, #122, on February 8, 1990, at 4:30 p.m.

Submit Written Comments to: Jack Kalmbach, Dean of Administration, by January 22, 1990.

Date of Intended Adoption: February 8, 1990.
December 1, 1989
Jack R. Kalmbach
Dean of Administration

CENTRALIA COLLEGE, DISTRICT 12
CHAPTER 132L-133
ORGANIZATION

NEW SECTION

WAC 132L-133-020 ORGANIZATION—OPERATION—INFORMATION. (a) **Organization.** Centralia College is established in Title 28B RCW as a public institution of higher education. The institution is governed by a five-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the institution. The president establishes the structure of the administration.

(b) **Operation.** The administrative office is located at the following address: Administration Building, Corner of Walnut and Rock Streets. The mailing address is 600 West Locust, Centralia, WA 98531.

The office hours are 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Educational operations are also located at the following addresses: 600 West Locust, Centralia; East County Center, Morton; and Tenino.

(c) Additional and detailed information concerning the educational offerings may be obtained from the catalog, copies of which are available at the following address: Admissions Office, 600 West Locust, Centralia, WA 98531.

CENTRALIA COLLEGE
CHAPTER 132L-108
PRACTICE AND PROCEDURE

NEW SECTION

WAC 132L-108-010 ADOPTION OF MODEL RULES OF PROCEDURE. The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, are hereby adopted for use at this institution. Those rules may be found at Chapter 10-08 Washington Administrative Code. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and procedural rules adopted in this title, the procedural rules adopted by this institution shall govern. Rules adopted at this institution prior to July 1, 1989, remain in full force and effect unless specifically repealed or amended.

NEW SECTION

WAC 132L-108-020 APPOINTMENT OF PRESIDING OFFICERS. The president or president's designee shall designate a presiding officer for adjudicative proceeding. The presiding officer shall be an administrative law judge, a member in good standing of the Washington State Bar Association, a panel of individuals, the president or his or her designee, or any combination of the above. Where more than one individual is designated to be the presiding officer, one person shall be designated by the president or president's designee to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters.

NEW SECTION

WAC 132L-108-030 METHOD OF RECORDING. Proceedings shall be recorded by a method determined by the presiding officer, among those available pursuant to the model rules of procedure in WAC 10-08-170.

NEW SECTION

WAC 132L-108-040 APPLICATION FOR ADJUDICATIVE PROCEEDING. An application for adjudicative proceeding shall be in writing. Application forms are available at the following address: Administrative Services, Administration Building, Corner of Walnut and Rock Streets. The mailing address is 600 West Locust, Centralia, WA 98531.

Written application for an adjudicative proceeding should be submitted to the above address within 20 days of the agency action giving rise to the application, unless provided for otherwise by statute or rule.

NEW SECTION

WAC 132L-108-050 BRIEF ADJUDICATIVE PROCEDURES. This rule is adopted in accordance with RCW 34.05.482-494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

- (1) Residency determinations made pursuant to RCW 28B.15.013, conducted by the admissions office;
- (2) Challenges to contents of education records;
- (3) Student conduct proceedings;
- (4) Parking violations;
- (5) Outstanding debts owed by students or employees;
- (6) Loss of eligibility for participation in institution sponsored athletic events, pursuant to Chapter 132L-400 WAC.

NEW SECTION

WAC 132L-108-060 DISCOVERY. Discovery in adjudicative proceedings may be permitted at the discretion of the presiding officer. In permitting discovery, the presiding officer shall make reference to the civil rules of procedure. The presiding officer shall have the power to control the frequency and nature of discovery permitted, and to order discovery conferences to discuss discovery issues.

NEW SECTION

WAC 132L-108-070 PROCEDURE FOR CLOSING PARTS OF THE HEARINGS. A party may apply for a protective order to close part of a hearing. The party making the request should state the reasons for making the application to the presiding officer. If the other party opposes the request, a written response to the request shall be made within 10 days of the request to the presiding officer. The presiding officer shall determine which, if any, parts of the proceeding shall be closed, and state the reasons therefore in writing within 20 days of receiving the request.

NEW SECTION

WAC 132L-108-080 RECORDING DEVICES. No cameras or recording devices shall be allowed in those parts of proceedings which the presiding officer has determined shall be closed pursuant to WAC 132L-108-010, except for the method of official recording selected by the institution.

WSR 89-24-094

PROPOSED RULES

CENTRALIA COLLEGE

[Filed December 6, 1989, 4:02 p.m.]

Original Notice.

Title of Rule: Chapter 132L-400 WAC, Loss of eligibility—Student athletic participation.

Purpose: To comply with section 6, chapter 369, Laws of 1989, SHB 1558.

Statutory Authority for Adoption: RCW 28B.50.140(13) and chapter 369, Laws of 1989, SHB 1558.

Statute Being Implemented: Chapter 369, Laws of 1989, SHB 1558.

Summary: Implements rules regarding loss of eligibility to participate in school-sponsored athletic events for

any student athlete found in violation of chapter 369, Laws of 1989, SHB 1558, dealing with steroids.

Reasons Supporting Proposal: To implement mandated ineligibility requirements which relate to any school-sponsored athletic event.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Alice Forth, Dean of Students, Student Services Building, 736-9391.

Name of Proponent: Centralia College, public.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule explains grounds for student athletic ineligibility, the suspension procedure—Right to informal hearing, and the hearing and decision processes in matters involving the use of steroids.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Centralia College, Administration Building Boardroom, #122, on February 8, 1990, at 4:30 p.m.

Submit Written Comments to: Jack Kalmbach, Dean of Administration, by January 22, 1990.

Date of Intended Adoption: February 8, 1990.

December 1, 1989

Jack R. Kalmbach

Dean of Administration

CENTRALIA COLLEGE, DISTRICT 12

CHAPTER 132L-400

LOSS OF ELIGIBILITY—STUDENT ATHLETIC

PARTICIPATION

NEW SECTION

WAC 132L-400-010 GROUNDS FOR INELIGIBILITY. Any student found by the college to have violated chapter 69.41 RCW by virtue of a criminal conviction or otherwise insofar as it prohibits the possession, use or sale of legend drugs, including anabolic steroids, will be disqualified from participation in any school-sponsored athletic event or activity.

NEW SECTION

WAC 132L-400-020 SUSPENSION PROCEDURE—RIGHT TO INFORMAL HEARING. Any student notified of a claimed violation of WAC 132L-400-010 shall have the right to a brief adjudicative hearing if a written request for such a hearing is received by the dean of students within three days of receipt of a declaration of further athletic ineligibility. If no written request is received within three days after receipt of the declaration of athletic ineligibility, the student will be deemed to have waived any right to a brief adjudicative hearing and will be declared ineligible from further participation in school-sponsored athletic events for the remainder of the school year.

NEW SECTION

WAC 132L-400-030 HEARING. If a timely written request for a hearing is made, the dean of students shall designate a hearing officer who shall be a college officer who is not involved with the athletic program to conduct the brief adjudicative hearing. The hearing officer shall promptly conduct the hearing and permit affected parties to explain both the college's view of the matter and the student's view of the matter. The brief adjudicative proceeding shall be conducted in accordance with the Administrative Procedure Act, RCW 34.05.482-494.

NEW SECTION

WAC 132L-400-040 DECISION. The college official who acts as hearing officer shall issue a written decision which shall include a brief

statement of the reasons for the decision and a notice that judicial review may be available. All documents presented, considered or prepared by the hearing officer shall be maintained as the official record of the brief administrative proceeding. A decision must be promptly rendered after the conclusion of the brief adjudicative hearing and in no event later than 20 days after the request for hearing is received by the dean of students.

WSR 89-24-095
NOTICE OF PUBLIC MEETINGS
BOARD OF HEALTH
[Memorandum—December 6, 1989]

1990 PLANNING AGENDA

January 9	Westwater Inn Meeting Room 272 Olympia, Washington
January 10	St. Placid Priory Multipurpose Room #1 Lacey, Washington
February 13	Westwater Inn Meeting Room 272 Olympia, Washington
February 14	St. Placid Priory Multipurpose Room #1 Lacey, Washington
March 13	Westwater Inn Meeting Room 272 Olympia, Washington
March 14	St. Placid Priory Multipurpose Room #1 Lacey, Washington
April 10	Westcoast Sea-Tac Seattle Room Seattle, Washington
April 11	Westcoast Sea-Tac Seattle Room Seattle, Washington
May 8	Executive Inn at Fife Commodore Room Tacoma, Washington
May 9	Tacoma General Hospital Jackson Hall Tacoma, Washington
June 12	Yakima Red Lion Yakima, Washington
June 13	Yakima County Health Department Yakima, Washington
July 10	Cavanaugh's at the River Clearwater Room Spokane, Washington
July 11	Spokane County Health Department Room 320-321 Spokane, Washington
August 7	Richland Hanford House Benton Franklin Room Richland, Washington
August 8	Richland County Health Department Richland, Washington
September 11	Skagit Valley Convention Center Mount Vernon, Washington
September 12	Skagit Valley Convention Center Mount Vernon, Washington
October 9	Vancouver Red Lion Inn at the Key Vancouver, Washington
October 10	Vancouver Health Department Vancouver, Washington
November 13	Westcoast Sea-Tac Tacoma Room Seattle, Washington
November 14	Westcoast Sea-Tac Tacoma Room Seattle, Washington

December 11	Westcoast Sea-Tac Tacoma Room Seattle, Washington
December 12	Westcoast Sea-Tac Tacoma Room Seattle, Washington

WSR 89-24-096
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES
(Apprenticeship and Training Council)
[Filed December 6, 1989, 4:35 p.m.]

Original Notice.

Title of Rule: Affirmative action, WAC 296-04-340, 296-04-350 and 296-04-370.

Purpose: Setting forth the method and data for calculating compliance with affirmative action plans.

Statutory Authority for Adoption: RCW 49.04.010.

Statute Being Implemented: RCW 49.04.100 – [49.04].130.

Summary: A weighted average formula shall be used to calculate percentages of women and minorities in apprenticeship programs. Records to determine compliance with affirmative action plans are required to be kept.

Reasons Supporting Proposal: The methods used to determine compliance with affirmative action requirements are not currently specified. The rules provide necessary guidance to joint apprenticeship training committees.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark M. McDermott, 406 Legion Way S.E., Olympia, (206) 753-3487.

Name of Proponent: Washington State Apprenticeship and Training Council, governmental.

Rule is necessary because of federal law, 29 C.F.R. Part 30.

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules would amend three existing WAC sections setting forth requirements for affirmative action in apprenticeship programs. The data and methods for calculating participation of women and minorities are specified. Specified records must also be kept to establish that a good faith effort to implement affirmative action plans was made. Adoption of this rule will improve enforcement of statutory affirmative action requirements and assist joint apprenticeship training committees in complying with those requirements.

Proposal Changes the Following Existing Rules: See statement above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The proposed rules are designed to improve compliance with statutory affirmative action requirements and affirmative action policies required by the Federal Bureau of Apprenticeship Training. A small business economic impact statement is not required when rules are adopted solely for the purpose of compliance with federal laws or regulations.

In addition, the proposed rules will have a minor economic impact. The additional documentation required by

WAC 296-04-370 simply requires that a program sponsor keep records of outreach efforts made in implementing its affirmative action plan. Specifically, the sponsor shall note: Who was contacted; when the contacts were made; where the contacts occurred; how the contacts were made; and the content of each contact.

Hearing Location: Radisson Hotel, Sea-Tac Airport, 17001 Pacific Highway South, Seattle, WA 98188, on January 18, 1990, at 1:30 p.m.

Submit Written Comments to: Mark M. McDermott, Supervisor of Apprenticeship, 406 Legion Way S.E., Olympia, by February 18, 1990.

Date of Intended Adoption: April 19, 1990.

December 6, 1989
Harold G. Wilson
Chairman

AMENDATORY SECTION (Amending Order 78-20, filed 11/14/78)

WAC 296-04-340 AFFIRMATIVE ACTION PLANS. (1) Adoption of a sponsor's commitment to equal opportunity in recruitment, selection, employment, and training of apprentices shall include the adoption of a written affirmative action plan.

(2) Definition of affirmative action. Affirmative action is not mere passive nondiscrimination. It includes procedures, methods and programs for the identification, positive recruitment, training, and motivation of present and potential minority and female (minority and nonminority) apprentices including the establishment of goals and timetables. It is action which will equalize opportunity in apprenticeship so as to allow full utilization of the work potential of minorities and women. The overall result to be sought is equal opportunity in apprenticeship for all individuals participating in or seeking entrance to the labor force of this state.

(3) Outreach and positive recruitment. An acceptable affirmative action plan must also include adequate provisions for outreach and positive recruitment that would reasonably be expected to increase minority and female participation in apprenticeship by expanding the opportunity of minorities and women to become eligible for apprenticeship selection. In order to achieve these objectives, sponsors shall undertake activities such as those listed below. It is not contemplated that each sponsor necessarily will include all of the listed activities in its affirmative action program. The scope of the affirmative action program will depend on all the circumstances including the size and type of the program and its resources. However, the sponsor will be required to undertake a significant number of appropriate activities in order to enable it to meet its obligations under these rules. The affirmative action plan shall set forth the specific steps the sponsor intends to take in the areas listed below. Whenever special circumstances warrant, the council may provide from any funds made available to it for such purpose, such financial or other assistance it deems necessary to implement the requirements of this paragraph.

(a) Dissemination of information concerning the nature of apprenticeship, requirements for admission to apprenticeship, availability of apprenticeship opportunities, sources of apprenticeship applications, and the equal opportunity policy of the sponsor. For programs accepting applications only at specified intervals, such information shall be disseminated at least ((30)) thirty days in advance of the earliest date for application at each interval. For programs customarily receiving applications throughout the year, such information shall be regularly disseminated, but not less than semiannually. Such information shall be given to the council, local schools, employment service offices, women's centers, outreach programs and community organizations which can effectively reach minorities and women and shall be published in newspapers which are circulated in the minority community and among women as well as the general areas in which the program sponsor operates.

(b) Participate in any workshops conducted by employment service agencies for the purpose of familiarizing school, employment service and other appropriate personnel with the apprenticeship system and current opportunities therein.

(c) Cooperation with the local school boards and vocational education systems to develop programs for preparing students to meet the

standards and criteria required to qualify for entry into apprenticeship programs.

(d) Internal communication of the sponsor's equal opportunity policy in such a manner as to foster understanding, acceptance, and support among the sponsor's various officers, supervisors, employees, and members and to encourage such persons to take the necessary action to aid the sponsor in meeting its obligations under these rules.

(e) Engaging in such programs as outreach for the positive recruitment and preparation of potential applicants for apprenticeship; where appropriate and feasible, such programs shall provide for pretesting experience and training. If no programs are in existence, the sponsor shall seek to initiate these programs, or, when available, to obtain financial assistance from the council. In initiating and conducting these programs, the sponsor may be required to work with other sponsors and appropriate community organizations. The sponsor shall also initiate programs to prepare women and encourage women to enter traditionally male programs.

(f) To encourage the establishment and utilization of programs of preapprenticeship, preparatory trade training, or others designed to afford related work experience or to prepare candidates for apprenticeship, a sponsor shall make appropriate provision in its affirmative action plan to assure that those who complete such programs are afforded full and equal opportunity for admission into the apprenticeship program.

(g) Utilization of journeymen to assist in the implementation of the sponsor's affirmative action program.

(h) Granting advance standing or credit on the basis of previously acquired experience, training, skills, or aptitude for all applicants equally.

(i) Admitting to apprenticeship persons whose age exceeds the maximum age for admission to the program, where such action is necessary to assist the sponsor in achieving its affirmative action obligations.

(j) Appropriate action as to ensure that the recruitment, selection, employment, and training of apprentices during apprenticeship, shall be without discrimination because of race, color, religion, national origin, or sex; such as: General publication of apprenticeship opportunities and advantages in advertisements, industry reports, articles, etc.; use of present minority and female apprentices and journeymen as recruiters; career counseling; periodic auditing of affirmative action programs and activities; and development of reasonable procedures between the sponsor and the employers of apprentices to ensure that equal employment opportunity is being granted including reporting systems, on site reviews, briefing sessions, etc. The affirmative action programs shall set forth the specific steps the sponsors intend to take in the above areas under this subsection (3). Whenever special circumstances warrant, the council may provide such financial or other assistance from funds available to it for that purpose, as it deems necessary to implement the above requirements.

(4) Goals and timetables.

(a) A sponsor adopting a selection method under WAC 296-04-350 (2) or (3), which determines on the basis of analysis described in subdivision (e) that it has deficiencies in terms of underutilization of minorities and/or women (minority and nonminority) in the craft or crafts represented by the program shall include in its affirmative action plan percentage goals and timetables for the admission of minority and/or female (minority and nonminority) applicants into the eligibility pool.

(b) A sponsor adopting a selection method under WAC 296-04-350 (4) or (5), which determines on the basis of the analysis described in subdivision (e) that it has deficiencies in terms of the underutilization of the minorities and/or women in the craft or crafts represented by the program shall include in its affirmative action plan percentage goals and timetables for the selection of minority and female (minority and nonminority) applicants for the apprenticeship program.

(c) "Underutilization" as used in this subsection refers to the situation where there are fewer minorities and/or women (minority and nonminority) in the particular craft or crafts represented by the program than would reasonably be expected in view of an analysis of the specific factors in subdivision (e) of this section. Where, on the basis of the analysis, the sponsor determines that it has no deficiencies, no goals and timetables need be established. However, where no goals and timetables are established, the affirmative action plan shall include a detailed explanation why no goals and timetables have been established.

(d) Where the sponsor fails to submit goals and timetables as part of its affirmative action plan or submits goals or timetables which are unacceptable, and the council determines that the sponsor has deficiencies

in terms of underutilization of minorities or women (minority and nonminority) within the meaning of this section, the council shall establish goals and timetables applicable to the sponsor for the admission of minority and female (minority and nonminority) applicants into the eligibility pool for selection of apprentices, as appropriate. The sponsor shall make good faith efforts to obtain these goals and timetables in accordance with the requirements of this section.

(e) Analysis to determine if deficiencies exist. The sponsor's determination as to whether goals and timetables shall be established shall be based on an analysis of at least the following factors, which analysis shall be set forth in writing as part of the affirmative action plan.

(i) The ((size)) percentage of the working age minority and female (minority and nonminority) population in the program sponsor's labor market area;

(ii) The ((size)) percentage of the minority and female (minority and nonminority) labor force in the program sponsor's labor market area;

(iii) The percentage of the minority and female (minority and nonminority) participation as apprentices in the particular craft as compared with the percentage of minorities and women (minority and nonminority) in the labor force in the program sponsor's labor market area;

(iv) The percentage of minority and female (minority and nonminority) participation as journeymen employed by the employer or employers participating in the program as compared with the percentage of minorities and women (minority and nonminority) in the sponsor's labor market area and the extent to which the sponsor should be expected to correct any deficiencies through the achievement of goals and timetables for the selection of apprentices;

(v) The general availability of minorities and women (minority and nonminority) with present or potential capacity for apprenticeship in the program sponsor's labor market area.

In calculating the percentage of minority and female labor force or populations in the program sponsor's labor market in (e)(i) through (v) of this subsection or in calculating any other factors which are included in the analysis set forth in this section, the numerator shall be the number of women or minorities in that particular classification who are in the labor force or population; the denominator shall be the total labor force or population.

(f) Establishment and attainment of goals and timetables. The goals and timetables shall be established on the basis of the sponsor's analysis of its underutilization of minorities and women and its entire affirmative action program. A single goal for minorities and a separate single goal for women is acceptable unless a particular group is employed in a substantially disparate manner in which case separate goals shall be established for such group. Such separate goals would be required, for example, if a specific minority group of women were underutilized even though the sponsor had achieved its standards for women generally. In establishing the goals, the sponsor should consider the results which could be reasonably expected from its good faith efforts to make its overall affirmative action program work. Compliance with these requirements shall be determined by whether the sponsor has met its goals within its timetable, or failing that, whether it has made good faith efforts to meet its goals and timetables. Its "good faith efforts" shall be judged by whether it is following its affirmative action program and attempting to make it work, including evaluation and changes in its program where necessary to attain the maximum effectiveness toward the attainment of its goals. However, in order to deal fairly with program sponsors, and with women who are entitled to protection under the goals and timetables requirements, during the first ((+2)) twelve months after the effective date of these regulations, the program sponsor would generally be expected to set a goal for women for the entering year class at a rate which is not less than ((50)) fifty percent of the proportion women are of the workforce in the program sponsor's labor market area and set a percentage goal for women in each class beyond the entering class which is not less than the participation rate of women currently in the preceding class. At the end of the first ((+2)) twelve months after the effective date of these regulations, sponsors are expected to make appropriate adjustments in goal levels. See WAC 296-04-370(2).

(g) Data and information. The supervisor shall make available to program sponsors data and information on minority and female (minority and nonminority) labor force characteristics provided by the employment security department or the office of financial management for each standard metropolitan statistical area, and for other special areas as appropriate.

The data to be used in calculating percentages of apprentices and journeymen as required by (c)(ii) and (iii) of this subsection shall be derived from records maintained by apprenticeship committees.

AMENDATORY SECTION (Amending Order 78-20, filed 11/14/78)

WAC 296-04-350 SELECTION OF APPRENTICES. (1) Obligations of sponsors. In addition to development of a written affirmative action plan to ensure that minorities and women have an equal opportunity for selection as apprentices and otherwise ensure the prompt achievement of full and equal opportunity in apprenticeship, each sponsor shall further provide in its affirmative action program that the selection of apprentices shall be made under one of the methods specified in the following subsections (2) through (5) of this section.

(2) Selection methods. The sponsor shall adopt one of the following methods of selecting apprentices:

(a) Selection on basis of rank from pool of eligible applicants. A sponsor may select apprentices from a pool of eligible applicants created in accordance with the requirements of subdivision (c) of this subsection on the basis of the rank order of scores of applicants on one or more qualification standards where there is a significant statistical relationship between rank order of scores and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall follow the procedure set forth in guidelines on employee selection procedures published at 41 CFR Part 60-3.

(b) Requirements. The sponsor adopting this method of selecting apprentices shall meet the requirements of subdivisions (c) through (g) of this subsection.

(c) Creation of pool of eligibles. A pool of eligibles shall be created from applicants who meet the qualifications of minimum legal working age and the sponsor's minimum physical requirements; or from applicants who meet qualification standards in addition to minimum legal working age: PROVIDED, That any additional qualification standards conform with the following requirements:

(i) Qualification standards. The qualification standards and the procedures for determining such qualification standards shall be stated in detail and shall provide criteria for the specific factors and attributes to be considered in evaluating applicants for admission to the pool. The score required under each qualification standard for admission to the pool shall also be specified. All qualification standards, and the score required on any standard for admission to the pool, shall be directly related to job performance, as shown by a significant statistical relationship between the score required for admission to the pool, and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall follow the procedures set forth in 41 CFR Part 60-3. Qualifications shall be considered as separately required so that the failure of an applicant to obtain the specified score under a single qualification standard shall disqualify the applicant from admission to the pool.

(ii) Aptitude tests. Any qualification standard for admission to the pool consisting of aptitude test scores shall be directly related to job performance, as shown by significant statistical relationships between the score on the aptitude tests required for admission to the pool, and performance in the apprenticeship program. In determining such relationship, the sponsor shall follow the procedures set forth in 41 CFR Part 60-3. The requirements of this item (ii) shall also be applicable to aptitude tests utilized by a program sponsor which are administered by a state employment agency, or any other person, agency or organization engaged in the selection or evaluation of personnel. A national test developed and administered by a national joint apprenticeship committee will not be approved by the United States Department of Labor unless such test meets the requirements of this subdivision.

(iii) Educational attainments. All educational attainments or achievements as qualifications for admission to the pool shall be directly related to job performance, as shown by a significant statistical relationship between the score required for admission to the pool and performance in the apprenticeship program. In demonstrating such relationship the sponsor shall meet the requirements of 41 CFR Part 60-3. School records or a passing grade on the general educational development tests recognized by the state or local public instruction authority shall be evidence of educational achievement. Education requirements shall be applied uniformly to all applicants.

(d) Oral interviews. Oral interviews shall not be used as a qualification standard for admission into an eligibility pool. However, once an applicant is placed in the eligibility pool, and prior to selection for apprenticeship from the pool, he or she may be required to submit to an

oral interview. Oral interviews shall be limited to such objective questions as may be required to determine the fitness of applicants to enter the apprenticeship program, but shall not include questions relating to qualifications previously determined in gaining entrance to the eligibility pool. When an oral interview is used, each interviewer shall record the questions and the general nature of the applicant's answers, and shall prepare a summary of any conclusions. Each applicant rejected from the pool of eligibles on the basis of an oral interview shall be given a written statement of such rejection, the reasons therefor, and the appeal rights available to the applicant.

(e) Notification of applicants. All applicants who meet the requirements for admission shall be notified and placed in the eligibility pool. The program sponsors shall give each rejected applicant who is not selected for the pool or the program notice of his or her rejection, including the reason for the rejection, the requirements for admission to the pool of [the] eligibles, and the appeal rights available to the applicant.

(f) Goals and timetables. The sponsor shall establish, where required by WAC 296-04-340(4), percentage goals and timetables for the admission of minorities and women (minority and nonminority) into the pool of eligibles in accordance with the provisions of WAC 296-04-340 (4)(a) through (f).

(g) Compliance. A sponsor shall be deemed to be in compliance with its commitments under subdivision (f) of this subsection (2) if it meets its goals or timetables or if it makes a good faith effort to meet these goals and timetables. In the event of the failure of the sponsor to meet its goals and timetables, it shall be given an opportunity to demonstrate that it has made every "good faith effort" to meet its commitments (see WAC ((296-04-430)) 296-04-340 (4)(f)). All the actions for the sponsor shall be reviewed and evaluated in determining whether such good faith efforts have been made.

(3) Random selection from pool of eligible applicants.

(a) Selection. A sponsor may select apprentices from a pool of eligible applicants on a random basis. The method of random selection is subject to approval by the council. Supervision of the random selection process shall be by an impartial person or persons selected by the sponsor, but not associated with the administration of the apprenticeship program. The time and place of the selection, and the number of apprentices to be selected, shall be announced. The place of the selection shall be open to all applicants and the public. The names of apprentices drawn by this method shall be posted immediately following the selection at the program sponsor's place of business.

(b) Requirements. The sponsor adopting this method of selecting apprentices shall meet the requirements of subdivisions (c) through (e) of subsection (2) of this section relating to the creation of a pool of eligibles, oral interviews and notification of applicants.

(c) Goals and timetables. The sponsor shall establish where required by WAC 296-04-340(4), percentage goals and timetables for the admission of minorities and women (minority and nonminority) into the pool of eligibles in accordance with the provisions of WAC 296-04-340 (4)(d) through (f).

(d) Compliance. Determinations as to the sponsor's compliance with its obligations under these rules shall be in accordance with the provisions of subdivision (g) of subsection (2) of this section.

(4) Selection from pool of current employees.

(a) Selection. A sponsor may select apprentices from an eligibility pool of the workers already employed by the program sponsor in a manner prescribed by a collective bargaining agreement where such exists, or by the sponsor's established promotion policy. The sponsor adopting this method of selecting apprentices shall establish goals and timetables for the selection of minority and female apprentices, unless the sponsor concludes, in accordance with the provisions of WAC 296-04-340 (4)(d) through (f), that it does not have deficiencies in terms of underutilization of minorities and/or women (minority and nonminority) in the apprenticeship of journeymen crafts represented by the program.

(b) Compliance. The determination as to the sponsor's compliance with its obligations under these regulations shall be in accordance with the provisions of subdivision (g) of subsection (2) of this section.

(5) Alternative selection methods. Selection. The sponsor may select apprentices by means of any other method, including its present selection method: PROVIDED, That the sponsor meets the following requirements:

(a) Selection method and goals and timetables. Within ((90)) ninety days of the effective date of these rules, the sponsor shall submit to the council, through its supervisor, the revised selection method it ((proposed)) proposes to use along with the rest of its written

affirmative action program including, where required by WAC 296-04-340(4), its percentage goals and timetables for the selection of minority and/or female (minority and nonminority) applicants for apprenticeship and its written analysis, upon which such goals and timetables, or lack thereof, are based. The establishment of goals and timetables shall be in accordance with the provisions of WAC 296-04-340 (4)(d) through (f). The sponsor may not implement any such [selection] method [until the council has approved the selection method] as meeting the requirements of subdivision (b) of this subsection (5) and has approved the remainder of its affirmative action program including its goals and timetables. If the council fails to act upon the selection method and the affirmative action program within ((30)) thirty days of its submission, the sponsor then may implement the selection method until acted upon by the council.

(b) Qualification standards. Apprentices shall be selected on the basis of objective and specific qualification standards. Examples of such standards are fair aptitude tests, school diplomas or equivalent, occupationally essential health requirements, fair interviews, school grades, and previous work experience. Where interviews are used, adequate records shall be kept including a brief summary of each interview and the conclusions on each of the specific factors, e.g., motivation, ambition, and willingness to accept direction which are part of the total judgment. In applying any such standards, the sponsor shall meet the requirements of 41 CFR Part 60-3.

(6) Compliance. Determination as to the sponsor's compliance with its obligations under these regulations shall be in accordance with the provisions of subdivision (g) of subsection (2) of this section. Where a sponsor, despite its good faith efforts, fails to meet its goals and timetables within a reasonable period of time, the sponsor may be required to make appropriate changes in its affirmative action program to the extent necessary to obtain maximum effectiveness toward the attainment of its goals. The sponsor may also be required to develop and adopt an alternative selection method, including a method prescribed by the council where it is determined that the failure of the sponsor to meet its goals is attributable in substantial part to the selection method. Where the sponsor's failure to meet its goals is attributable in substantial part to its use of the qualification standard which has adversely affected the opportunities of minorities and/or women (minority and nonminority) for apprenticeship, the sponsor may be required to demonstrate that such qualification standard is directly related to job performance, in accordance with the provisions of subsection (2), subdivision (c), item (i), of this section.

AMENDATORY SECTION (Amending Order 78-20, filed 11/14/78)

WAC 296-04-370 RECORDS. Obligations of sponsors. (1) Each sponsor shall keep adequate records including a summary of the qualifications of each applicant, the basis for evaluation and for selection or rejection of each applicant, the records pertaining to the interviews of applicants, the original application for each applicant, information relative to the operation of the apprenticeship program, including but not limited to job assignment, promotion, demotion, layoff, or termination, rates of pay, or other forms of compensation or conditions of work, and separately, hours of training provided, and any other records pertinent to the determination of compliance with these regulations as may be required by the council. The records pertaining to the individual applicants, selected or rejected, shall be maintained in such manner as to permit identification of minority and female (minority and nonminority) participants.

(2) Affirmative action plans. Each sponsor must retain a statement of its affirmative action plan required by WAC 296-04-340 for the prompt achievement of full and equal opportunity in apprenticeship, including all data and analysis made pursuant to the requirements of WAC 296-04-340. Sponsors shall review their affirmative action plans annually and update them where necessary, including the goals and timetables.

Documentation necessary to establish a sponsor's good faith effort at implementation of its affirmative action plan also shall be maintained by each sponsor. The documentation shall include:

- (a) Who was contacted;
- (b) When the contacts were made;
- (c) Where the contacts occurred;
- (d) How the contacts were made; and
- (e) The content of each contact.

(3) Qualification standards. Each sponsor must maintain evidence that its qualification standards have been validated in accordance with the requirements set forth in WAC 296-04-350(2).

(4) Records of state apprenticeship council. The records of the council shall be kept in the offices of the supervisor, which records shall include registration requirements, individual program standards, registration records, program compliance reviews and investigations, and any other records pertinent to the determination of compliance with these rules, as may be required by the United States Department of Labor, and shall report to the department as may be required.

(5) Maintenance of records. The records required by these rules (WAC 296-04-300 through 296-04-480) and any other information relevant to compliance with Part 30 of Title 29 of the Code of Federal Regulations shall be maintained for five years and made available upon request to the United States Department of Labor or other authorized representative.

WSR 89-24-097

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES (Apprentice and Training Council)

[Filed December 6, 1989, 4:37 p.m.]

Original Notice.

Title of Rule: Council meetings, WAC 296-04-040.

Purpose: To establish a deadline for submitting certain correspondence for consideration at council meetings.

Statutory Authority for Adoption: RCW 49.04.010.

Statute Being Implemented: RCW 49.04.010.

Summary: Correspondence to the council other than petitions, requests, or proposed standards, all of which must be submitted 45 days prior to a regular council meeting, shall be submitted at least 15 days prior to a regular council meeting, unless the council determines the correspondence crucial to approval or disapproval of an agreement.

Reasons Supporting Proposal: Establishing a deadline for submitting any written correspondence to the council will enable staff to better prepare the council before meetings.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark M. McDermott, 406 Legion Way S.E., Olympia, (206) 753-3487.

Name of Proponent: Washington State Apprenticeship and Training Council, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule would require certain types of correspondence to the apprenticeship council to be submitted in writing to the supervisor of apprenticeship 15 days before the council's quarterly meeting. Adoption of this rule will reduce submittals to the council at the meeting and allow council staff time to better analyze and brief the council on all matters considered.

Proposal Changes the Following Existing Rules: A new subsection is added to WAC 296-04-040.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

This rule alters the procedural operations of the apprenticeship council and has no impact on small businesses.

Hearing Location: Radisson Hotel, Sea-Tac Airport, 17001 Pacific Highway South, Seattle, WA 98188, on January 18, 1990, at 1:30 p.m.

Submit Written Comments to: Mark M. McDermott, Supervisor of Apprenticeship, 406 Legion Way S.E., HC-710, Olympia, WA 98504, by February 18, 1989 [1990].

Date of Intended Adoption: April 19, 1990.

December 6, 1989

Harold G. Wilson
Chairman

AMENDATORY SECTION (Amending Order 85-31, filed 11/1/85)

WAC 296-04-040 COUNCIL MEETINGS—WHEN HELD—NOTICE—WHO MAY ATTEND—QUORUM. Council meetings shall be of two kinds—regular and special meetings.

(1) Regular meetings. Regular meetings of the council shall be held at least quarterly during each year beginning on the third Thursday of the months of January, April, July and October. Such regular meetings shall be held at such locations within the state of Washington which in the opinion of the council will best promote the purposes of the Washington State Apprenticeship and Training Act. All meetings of the council shall be open to the general public, and all actions, transaction of official business of the council, collective decision, commitment or promise, and all collective discussion, acquisition and exchange of facts in the course of deliberation prior to any action of the council shall only be made in meetings open to the public consistent with the provisions of the Open Public Meetings Act of 1971 (chapter 250, Laws of 1971 1st ex. sess.) and chapter ((34.04)) 34.05 RCW. No member of the general public will be required as a condition upon attending any council meeting to register his name or give any other information or to fulfill any condition precedent to his attendance at council meetings. Notice of such meetings shall be given to all approved committees and may be given to any persons, organizations, or agencies at the direction of the council, or any member thereof, and in addition shall be given to any newspaper, news service, television or radio station which has requested to be notified of council meetings. Committee programs, plant programs, or amendments thereto, may be approved or disapproved only at regular meetings.

(2) Special meetings. Special meetings of the council may be called by the chairman or by majority of the council members by delivering personally or by mail written notice to each member of the council and all approved joint apprenticeship and training committees and to each newspaper of general circulation, television or radio station which has on file with the council or the supervisor a request to be notified of such special meeting of the council, which shall be ineffective unless it sets forth the date, time and location of the meeting and specifies the business to be transacted by the council at such special meeting. Final disposition may not be made of any matter at such special meeting other than specified in the notice of such special meeting. Special meetings shall be open to the general public to the same extent as the quarterly regular meetings of the council. Notice of special meetings must be delivered personally or by mail at least twenty-four hours before the time specified in the notice of such special meeting, except in the case of rule changes pursuant to chapter ((34.04)) 34.05 RCW which must be at least ((20)) twenty days before the time specified in the notice.

(3) Notice of council meetings. Notice of each quarterly regular meeting of the council shall be given to all council members by the supervisor at least ((20)) twenty days before the date set for the meeting and in addition shall give notice to such other persons and organizations as specified in subsection (1) of this section.

(4) Notice of special meetings of the apprenticeship council. Notice of special meetings of the council may be given by the supervisor at the request of the chairman or the majority of the members of the council in the manner and form specified in subsection (2) of this section. If such notices are not given, no action taken by the council shall be effective at such meetings unless each regular council member at such meeting, or prior thereto, gives a written waiver of notice of such meeting to be filed by the supervisor and the notice shall be deemed to be waived by any member who is present at the meeting at the time it convenes. PROVIDED, That rule change may not be made at such special meeting unless the requirements of chapter ((34.04)) 34.05 RCW have been complied with.

(5) Submission of petitions or requests. The council will not act upon any petition or request which is addressed to the council unless such a petition or request is submitted in writing to the supervisor at least ((45)) forty-five days prior to the date of such quarterly regular meeting, and any petitions or requests not submitted ((45)) forty-five days prior to such quarterly meeting shall be deferred to the next quarterly regular meeting of the council and the petitioner shall be so notified by the supervisor.

(6) Correspondence other than that referenced in WAC 296-04-005 and 296-04-040 (1), (2) and (5), shall be submitted in writing to the supervisor of apprenticeship at least fifteen working days before the quarterly meeting at which the council's consideration is requested. However, the supervisor of apprenticeship may consider such correspondence submitted less than fifteen working days before the meeting if the council determines the correspondence is crucial to deliberations regarding approval or disapproval of any given apprenticeship agreement. Noncrucial correspondence submitted less than fifteen working days before the quarterly meeting shall be considered by the council at the following quarterly meeting.

(7) Quorum. Two-thirds of the council members entitled to vote shall be considered a quorum.

WSR 89-24-098 PROPOSED RULES DEPARTMENT OF LABOR AND INDUSTRIES (Apprenticeship and Training Council)

[Filed December 6, 1989, 4:38 p.m.]

Original Notice.

Title of Rule: Apprenticeship agreements, WAC 296-04-270.

Purpose: To clarify that proposed standards for new apprenticeship programs are consistent with existing standards.

Statutory Authority for Adoption: RCW 49.04.010.

Statute Being Implemented: RCW 49.04.050.

Summary: Proposed standards must be consistent with existing standards for the industry, craft or trade in question. Guidelines for determining consistency are set forth.

Reasons Supporting Proposal: The proposed rule provides sponsors more guidance than the existing rule which states only that proposed standards be "substantially similar."

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark M. McDermott, 406 Legion Way, Olympia, (206) 753-3487.

Name of Proponent: Washington State Apprenticeship and Training Council, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule amends an existing rule to clarify that apprenticeship standards for proposed new programs be consistent with existing standards for the industry, craft or trade in question. Proposed standards will be considered consistent if designed to achieve the same skill levels as existing standards in the state for that industry, trade or craft. Adoption of this rule will provide sponsors of new programs more guidance than the existing rule which states only that proposed standards be "substantially similar."

Proposal Changes the Following Existing Rules: See above statement.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

This rule clarifies the requirements for apprenticeship standards for new programs submitted for council approval. It will assist all sponsors of new programs in understanding criteria for council approval.

There is no economic impact to business and no additional paperwork required by this rule.

Hearing Location: Radisson Hotel, Sea-Tac Airport, 17001 Pacific Highway South, Seattle, WA 98188, on January 18, 1990, at 1:30 p.m.

Submit Written Comments to: Mark M. McDermott, Supervisor of Apprenticeship, 406 Legion Way, Olympia, by February 18, 1990.

Date of Intended Adoption: April 19, 1990.

December 6, 1989
Harold G. Wilson
Chairman

AMENDATORY SECTION (Amending Order 86-43, filed 12/15/86)

WAC 296-04-270 APPRENTICESHIP AGREEMENTS—TYPES—STANDARDS—REGISTRATION, REVIEW, CANCELLATION, REREGISTRATION—CERTIFICATE OF COMPLETION. (1) The following apprenticeship agreements shall be recognized pursuant to RCW 49.04.060:

(a) A written agreement between an association of employers and an organization of employees describing the conditions of training for apprentices.

(b) A written statement of an employer or a written agreement between an employer and an employee organization describing the conditions of training apprentices. The former agreement shall be recognized only if there is no bona fide employee organization in the plant affected by the agreement.

(c) A written agreement between an employer and an individual apprentice describing the conditions of apprenticeship.

(2) Apprenticeship agreements shall conform to the following standards:

(a) Committee programs, plant programs, and on-the-job training programs must contain the provisions required by RCW 49.04.050 and, in addition, shall contain:

(i) Provision for nondiscrimination in the selection of apprentices in substantially the following form:

Each sponsor of an apprenticeship program shall include in its standards the following equal opportunity pledge: "The recruitment, selection, employment and training of apprentices during their apprenticeship shall be without discrimination because of race, color, religion, national origin, or sex. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required by the rules of the Washington state apprenticeship and training council and Title 29, Part 30 of the Code of Federal Regulations."

(ii) Provision that there shall be no discrimination on the basis of race, color, creed, sex, or national origin after selection during all phases of employment during apprenticeship.

(iii) Provision that adequate records of the selection process must be kept for a period of at least five years and will be made available to the council or its designated representative on request. Such records must include a brief summary of any interviews and the conclusions reached on each of the specific factors which are part of the total judgment concerning each applicant.

(iv) Provision for local committee rules and regulations consistent with these rules and the applicable apprenticeship agreement.

(b) Any proposed standards for apprenticeship must be ((substantially similar to)) consistent with any standards for apprenticeship already approved by the council for the industry, craft or trade in question to the end that there is general statewide uniformity of such standards in each industry, trade or craft. Proposed standards shall be considered consistent if they are designed to achieve the same levels of skills as existing standards within the state for that industry, trade, or craft.

(c) The statement of the progressively increasing scale of wages, RCW 49.04.050(5), shall provide for a set percentage of a specified journeyman wage. In no event shall the specified journeyman wage from which the apprentice's percentages are computed fall below eighty percent of the established prevailing basic wage computed by the industrial statistician of the department of labor and industries pursuant to chapter 39.12 RCW. Where the department of labor and industries has not computed such a prevailing basic wage, the prevailing basic wage for the craft for the area set by the United States Department of Labor pursuant to the Davis-Bacon Act, 40 USC § 276, may be used.

(d) A sample apprenticeship agreement which the council approves is available on request from the supervisor.

(3) Registration, review, cancellation, reregistration.

(a) All individual agreements shall be registered with the supervisor and subject to his approval.

(b) The supervisor and his staff, in the performance of their field work, shall conduct a systematic review of all plant and committee programs and shall take appropriate action, including recommendation of cancellation, when they find that any program is not being operated according to these rules and regulations or according to its applicable standards.

(c) When any program is found to be operating in a manner inconsistent with or contrary to these rules and regulations or its established plant or committee program, the supervisor shall notify the offending committee, person, firm or agency of the violation. If the supervisor does not receive notice, within 60 days, of action taken to correct such violations, the supervisor may take whatever action he deems necessary, including recommendation of cancellation of the apprenticeship or training program and agreement to the council.

(d) If the supervisor deems it necessary to recommend cancellation of an apprenticeship or training program, he shall do so in writing to each council member, stating in detail the reasons for his recommendation. A copy of said recommendation shall be mailed to the last known address of each member of the committee administering said program, or to those persons responsible for said program, together with notice that the council shall consider the recommendation at its next regularly scheduled meeting more than 30 days subsequent to the date of the recommendation and that all interested persons may present evidence or testimony regarding said recommendation. The council shall decide the question before it upon majority vote of the members present and voting and shall notify all interested parties of its decision, together with the reasons for it, in writing.

(e) The cancellation of any program or agreement shall automatically effect a cancellation of any agreement registered thereunder, provided that any organization or firm not responsible for the violations causing the cancellation may petition the council for approval of such cancelled agreement or program as a new program.

(f) Certificates of completion shall be issued at the request of the appropriate committee. An affidavit of the secretary of the committee concerned shall accompany the request, which affidavit shall state that the apprentice has successfully completed the apprenticeship program of that committee, and that he has been an active, registered participant of that committee's program for at least six months.

**WSR 89-24-099
PROPOSED RULES
DEPARTMENT OF FISHERIES**

[Filed December 6, 1989, 4:57 p.m.]

Continuance of WSR 89-23-092.

Title of Rule: Fisheries regional enhancement groups.

Purpose: Establish regional enhancement groups.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: Chapter 426, Laws of 1989.

Summary: This continuance provides for alternate hearing sites.

Reasons Supporting Proposal: No change, see WSR 89-23-092.

Name of Agency Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, 586-2429; Implementation: Kahler Martinson, 115 General Administration Building, Olympia, 753-6621; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, 753-6585.

Name of Proponent: Washington State Department of Fisheries, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: No change, see WSR 89-23-092.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

No effect on 10% of all the businesses in any one three-digit industrial classification nor 20% of all businesses is expected.

Hearing Location: 7:00 p.m., Tuesday, January 9, 1990, at Skagit Valley Community College, Room A 22, 2405 College Way, Mt. Vernon, WA 98273; and 7:00 p.m., Wednesday, January 10, 1990, at Clark College, Alcove Area, Geiser Hall, 1800 East McLoughlin Boulevard, Vancouver, WA 98663; and at 7:00 p.m., Thursday, January 11, 1990, at Highline Community College, Building 26, Room 318, Des Moines, WA 98198.

Submit Written Comments to: Hearings Officer, Fisheries, 115 General Administration Building, Olympia, WA 98504, by January 8, 1989 [1990].

Date of Intended Adoption: January 16, 1989 [1990].

December 6, 1989

Sally J. Hicks
for Joseph R. Blum
Director

**WSR 89-24-100
PROPOSED RULES
DEPARTMENT OF FISHERIES**

[Filed December 6, 1989, 4:58 p.m.]

Original Notice.

Title of Rule: Commercial fishing rules.

Purpose: Establish spawn on kelp fishery.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: Chapter 176, Laws of 1989.

Summary: The 1989 legislature provided for establishing a spawn on kelp permit. These proposals implement that provision.

Reasons Supporting Proposal: Provide for herring management and economic health of the herring fishery.

Name of Agency Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, 753-6585; Implementation: Mark Pederson, 115 General Administration Building, Olympia, 753-6716; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, 753-6585.

Name of Proponent: Washington State Department of Fisheries, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Herring spawn on kelp has proven to be an emerging fishery with significant economic potential. The 1989 legislature provided for such a fishery by permit. These proposals provide a mechanism for issuing permits.

Proposal Changes the Following Existing Rules: Allows harvest by permit.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

No effect on 10% of all businesses in any one three-digit industrial classification nor 20% of all businesses is expected.

Hearing Location: NOAA Conference Room, 7600 Sand Point Way N.E., Seattle, WA 98115, on January 9, 1990, at 1:00 p.m.

Submit Written Comments to: Hearings Officer, Fisheries, 115 General Administration Building, Olympia, WA 98504, by January 8, 1990.

Date of Intended Adoption: January 16, 1989 [1990].

December 6, 1989

Sally J. Hicks
for Joseph R. Blum
Director

NEW SECTION

WAC 220-16-430 SPAWN ON KELP. "Spawn on kelp" is defined as herring eggs which have been deposited on any type of aquatic vegetation. It is unlawful to take spawn on kelp for commercial purposes unless a person has a spawn on kelp permit issued by the director.

AMENDATORY SECTION (Amending Order 80-69, filed 7/18/80)

WAC 220-20-020 GENERAL PROVISIONS—LAWFUL AND UNLAWFUL ACTS—FOOD FISH OTHER THAN SALMON. (1) It shall be unlawful to take, fish for or possess for commercial purposes any round, undressed sturgeon less than 48 inches or greater than 72 inches in length.

(2) It shall be unlawful to take, fish for or possess for commercial purposes or possess aboard a commercial fishing vessel for any purpose any species of halibut (*Hippoglossus*) unless permitted by the current regulations of the International Pacific Halibut Commission.

(3) It shall be unlawful to take, fish for or possess sturgeon in any of the waters of Puget Sound or tributaries thereof for commercial purposes with any type of commercial gear, and any sturgeon taken with any type of commercial gear incidental to a lawful fishery shall immediately be returned to the water unharmed.

(4) It shall be unlawful to take or fish for food fish for commercial purposes with any type of commercial gear in the waters of Shilshole Bay inland and inside a line projected in a southwesterly direction from Meadow Point to West Point.

(5) It shall be unlawful to take, fish for, or possess for commercial purposes any starry flounder less than 14 inches in length taken by any commercial gear, in all Puget Sound Marine Fish-Shellfish Areas.

(6) It shall be unlawful to harvest for commercial purposes herring eggs naturally deposited on marine vegetation or other substrate, unless a person has a permit issued by the director.

NEW SECTION

WAC 220-49-063 SPAWN ON KELP PERMITS—APPLICATIONS. (1) Any herring fisher holding a herring validation under RCW 75.30.140 may make application for one or more spawn on kelp permits. Notification of a spawn on kelp permit auction shall be mailed to all fishers holding herring validations.

(2) The department shall offer spawn on kelp permits under the following conditions:

(a) The department shall establish a minimum acceptable bid for a permit, and shall notify all applicants of that amount.

(b) Permits shall be offered by auction. Auction shall be by sealed bid, and the permit will be awarded to the bidder with the highest bid. In the case of a tie, those bidders who tie shall have a two working day opportunity to increase their bid amount. Failure to break the tie shall cause the department to award the permit by a drawing of lots from the tie bids. Such drawing shall occur on the third working day after the auction.

(c) Sealed bids must be submitted at least one working day prior to the day set for the auction, and must be accompanied by a certified check equal to one-fifth of the bid offered. Tie-breaker bids must be accompanied by a certified check in an amount equal to one-fifth of the difference between the original bid and the tie-breaker bid amount. The department shall return to unsuccessful bidders the amount tendered as soon as possible.

(d) The successful bidder for a permit is required to sign and return to the department a spawn on kelp permit contract within thirty days after the award of a permit together with the balance of the bid amount. Failure to return the contract and bid balance will invalidate the award of the permit, the amount tendered shall be returned, and the permit shall be issued to the next highest bidder upon execution of the contract and payment of that bidder's bid amount. If there is no other bidder, the permit may be issued to any person possessing a herring validation who offers the minimum bid amount.

(e) The department may cancel the permit for noncompliance with the terms of the permit contract. In such case, the bid amount shall be retained by the department, and the permittee shall be liable for any royalty payments due and owing to the department.

NEW SECTION

WAC 220-49-064 SPAWN ON KELP PERMIT CONTRACT CONDITIONS. (1) Permit contracts shall protect the environment, prevent waste, ensure compliance with applicable laws and regulations, and ensure faithful performance of lease terms and conditions.

(2) All permit contracts shall provide for royalty payments to the department in an amount of twelve and one-half percent of the gross market value of the spawn on kelp at the time of sale. The gross market value shall be determined by the sale price, except that the department may establish a different gross market value upon a showing that the sale price differs from the actual market value. Such royalty payments shall be made to the department within two working days of the sale of the spawn on kelp.

(3) Permittees shall not sell any spawn on kelp to anyone who is not a licensed wholesale dealer, except that the permittee may be a licensed wholesale dealer, and, after completing a state of Washington fish receiving ticket, may sell the spawn on kelp to someone who is not a wholesale dealer.

(4) Spawn on kelp permits are transferrable to any person holding a herring validation. The transfer shall be made on a form provided by the department, and the transferee shall be subject to the same terms and conditions of the original permit contract.

(5) Every permittee may surrender the permit and shall be relieved of any obligation under the permit except remitting any outstanding royalty payments. The permittee must notify the department in writing of intention to surrender the permit. If operations under the permit have been conducted, the permittee shall correct any adverse environmental effects caused by the operations, including but not limited to release of any entrapped herring, removal of any herring enclosure, and placement of any herring spawn upon habitat suitable for hatch and release of herring fry.

(6) The permit contract shall provide for cancellation for noncompliance with the terms of the contract. The permittee shall be notified, in writing, of noncompliance and the necessary corrective measures. The permittee's remedying of the noncompliance shall result in no cancellation of the permit. Failure to pay required royalty payments shall automatically result in permit cancellation. The permittee may appeal any cancellation under chapter 34.05 RCW.

(7) The permit contract shall allow the permittee to conduct operations reasonably necessary for the production of spawn on kelp. Nothing in this section shall relieve the permittee of any responsibility under applicable laws or regulations.

WSR 89-24-101
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 89-146—Filed December 6, 1989, 4:59 p.m.]

Date of Adoption: December 6, 1989.

Purpose: Commercial fishing regulation.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-04600T; and amending WAC
220-52-046.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Coastal crab stocks have not recovered from seasonal molting, and attempted harvest at this time would result in wastage. In order to protect local crab stocks, in the interest of the food supply of the people of the state of Washington, and to facilitate enforcement of the closure, no landings in coastal or Columbia River ports are allowed.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule:
[No information supplied by agency.]

Effective Date of Rule: Immediately.

December 6, 1989
Sally J. Hicks
for Joseph R. Blum
Director

NEW SECTION

WAC 220-52-04600U CRAB FISHERY—SEASONS AND AREAS. Notwithstanding the provisions of WAC 220-52-046, effective immediately until further notice:

(1) It is unlawful to fish for or possess Dungeness crab taken for commercial purposes from those waters of the Pacific Ocean north of the Washington—Oregon border and south of the Washington—Canada border, the Columbia River, Grays Harbor, or Willapa Harbor.

(2) It is unlawful to land any Dungeness crab taken for commercial purposes in Washington coastal ports or ports on the Columbia River.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-04600T CRAB FISHERY—SEASONS AND AREAS. (89-114)

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
PREP = Preproposal comments
RE-AD = Readoption of existing section
REP = Repeal of existing section
REAFF = Order assuming and reaffirming rules
REMOV = Removal of rule pursuant to RCW 34.04.050(5)
RESCIND = Rescind previous emergency rule
REVIEW = Review of previously adopted rule
STMT = Statement regarding previously adopted rule

Suffixes:

-P = Proposed action
-C = Continuance of previous proposal
-E = Emergency action
-S = Supplemental notice
-W = Withdrawal of proposed action
 No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
1-12-005	REP-P	89-09-068	1-12-180	REP-P	89-09-068
1-12-005	REP	89-12-028	1-12-180	REP	89-12-028
1-12-010	REP-P	89-09-068	1-12-190	REP-P	89-09-068
1-12-010	REP	89-12-028	1-12-190	REP	89-12-028
1-12-020	REP-P	89-09-068	1-12-191	REP-P	89-09-068
1-12-020	REP	89-12-028	1-12-191	REP	89-12-028
1-12-030	REP-P	89-09-068	1-12-200	REP-P	89-09-068
1-12-030	REP	89-12-028	1-12-200	REP	89-12-028
1-12-032	REP-P	89-09-068	1-12-210	REP-P	89-09-068
1-12-032	REP	89-12-028	1-12-210	REP	89-12-028
1-12-033	REP-P	89-09-068	1-12-220	REP-P	89-09-068
1-12-033	REP	89-12-028	1-12-220	REP	89-12-028
1-12-034	REP-P	89-09-068	1-12-910	REP-P	89-09-068
1-12-034	REP	89-12-028	1-12-910	REP	89-12-028
1-12-035	REP-P	89-09-068	1-12-930	REP-P	89-09-068
1-12-035	REP	89-12-028	1-12-930	REP	89-12-028
1-12-040	REP-P	89-09-068	1-12-940	REP-P	89-09-068
1-12-040	REP	89-12-028	1-12-940	REP	89-12-028
1-12-045	REP-P	89-09-068	1-12-950	REP-P	89-09-068
1-12-045	REP	89-12-028	1-12-950	REP	89-12-028
1-12-050	REP-P	89-09-068	1-13-005	REP-P	89-09-068
1-12-050	REP	89-12-028	1-13-005	REP	89-12-028
1-12-060	REP-P	89-09-068	1-13-010	REP-P	89-09-068
1-12-060	REP	89-12-028	1-13-010	REP	89-12-028
1-12-070	REP-P	89-09-068	1-13-020	REP-P	89-09-068
1-12-070	REP	89-12-028	1-13-020	REP	89-12-028
1-12-080	REP-P	89-09-068	1-13-030	REP-P	89-09-068
1-12-080	REP	89-12-028	1-13-030	REP	89-12-028
1-12-090	REP-P	89-09-068	1-13-032	REP-P	89-09-068
1-12-090	REP	89-12-028	1-13-032	REP	89-12-028
1-12-100	REP-P	89-09-068	1-13-033	REP-P	89-09-068
1-12-100	REP	89-12-028	1-13-033	REP	89-12-028
1-12-110	REP-P	89-09-068	1-13-034	REP-P	89-09-068
1-12-110	REP	89-12-028	1-13-034	REP	89-12-028
1-12-120	REP-P	89-09-068	1-13-035	REP-P	89-09-068
1-12-120	REP	89-12-028	1-13-035	REP	89-12-028
1-12-125	REP-P	89-09-068	1-13-040	REP-P	89-09-068
1-12-125	REP	89-12-028	1-13-040	REP	89-12-028
1-12-130	REP-P	89-09-068	1-13-045	REP-P	89-09-068
1-12-130	REP	89-12-028	1-13-045	REP	89-12-028
1-12-140	REP-P	89-09-068	1-13-050	REP-P	89-09-068
1-12-140	REP	89-12-028	1-13-050	REP	89-12-028
1-12-150	REP-P	89-09-068	1-13-060	REP-P	89-09-068
1-12-150	REP	89-12-028	1-13-060	REP	89-12-028
1-12-155	REP-P	89-09-068	1-13-070	REP-P	89-09-068
1-12-155	REP	89-12-028	1-13-070	REP	89-12-028
1-12-160	REP-P	89-09-068	1-13-080	REP-P	89-09-068
1-12-160	REP	89-12-028	1-13-080	REP	89-12-028
1-12-170	REP-P	89-09-068	1-13-090	REP-P	89-09-068
1-12-170	REP	89-12-028	1-13-090	REP	89-12-028

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
1-21-050	NEW-P	89-09-068	10-08-210	AMD-P	89-10-035
1-21-050	NEW	89-12-028	10-08-210	AMD	89-13-036
1-21-060	NEW-P	89-09-068	10-08-211	NEW-P	89-10-035
1-21-060	NEW	89-12-028	10-08-211	NEW	89-13-036
1-21-070	NEW-P	89-09-068	10-08-215	NEW-P	89-10-035
1-21-070	NEW	89-12-028	10-08-215	NEW	89-13-036
1-21-080	NEW-P	89-09-068	10-08-230	NEW-P	89-10-035
1-21-080	NEW	89-12-028	10-08-230	NEW	89-13-036
1-21-090	NEW-P	89-09-068	10-08-250	NEW-P	89-10-035
1-21-090	NEW	89-12-028	10-08-250	NEW	89-13-036
1-21-100	NEW-P	89-09-068	10-08-251	NEW-P	89-10-035
1-21-100	NEW	89-12-028	10-08-251	NEW	89-13-036
1-21-110	NEW-P	89-09-068	10-08-252	NEW-P	89-10-035
1-21-110	NEW	89-12-028	10-08-252	NEW	89-13-036
1-21-120	NEW-P	89-09-068	10-08-260	NEW-P	89-10-035
1-21-120	NEW	89-12-028	10-08-260	NEW	89-13-036
1-21-130	NEW-P	89-09-068	10-08-261	NEW-P	89-10-035
1-21-130	NEW	89-12-028	10-08-261	NEW	89-13-036
1-21-140	NEW-P	89-09-068	16-22-040	AMD-P	89-10-065
1-21-140	NEW	89-12-028	16-22-040	AMD	89-14-020
1-21-150	NEW-P	89-09-068	16-30-010	AMD-P	89-02-056
1-21-150	NEW	89-12-028	16-30-010	AMD	89-06-014
1-21-160	NEW-P	89-09-068	16-30-020	AMD-P	89-02-056
1-21-160	NEW	89-12-028	16-30-020	AMD	89-06-014
1-21-170	NEW-P	89-09-068	16-30-025	NEW-P	89-02-056
1-21-170	NEW	89-12-028	16-30-025	NEW	89-06-014
4-25-040	AMD	89-03-062	16-30-030	AMD-P	89-02-056
4-25-040	AMD-P	89-10-012	16-30-030	AMD	89-06-014
4-25-040	AMD	89-19-004	16-30-050	AMD-P	89-02-056
4-25-080	AMD-P	89-10-013	16-30-050	AMD	89-06-014
4-25-080	AMD-P	89-12-073	16-30-060	AMD-P	89-02-056
4-25-180	REP	89-03-062	16-30-060	AMD	89-06-014
4-25-191	NEW	89-03-062	16-30-070	AMD-P	89-02-056
10-04-020	AMD-P	89-10-035	16-30-070	AMD	89-06-014
10-04-020	AMD	89-13-036	16-30-090	AMD-P	89-02-056
10-04-060	AMD-P	89-10-035	16-30-090	AMD	89-06-014
10-04-060	AMD	89-13-036	16-30-100	AMD-P	89-02-056
10-08-001	NEW-P	89-10-035	16-30-100	AMD	89-06-014
10-08-001	NEW	89-13-036	16-54-082	AMD-E	89-21-005
10-08-010	REP-P	89-10-035	16-54-082	AMD-P	89-21-074
10-08-010	REP	89-13-036	16-54-082	AMD	89-24-021
10-08-020	REP-P	89-10-035	16-59	AMD	89-06-007
10-08-020	REP	89-13-036	16-59-030	AMD	89-06-007
10-08-030	REP-P	89-10-035	16-156	AMD-P	89-20-035
10-08-030	REP	89-13-036	16-156	AMD-E	89-23-068
10-08-035	NEW-P	89-10-035	16-156-001	AMD-P	89-20-035
10-08-035	NEW	89-13-036	16-156-001	AMD-E	89-23-068
10-08-040	AMD-P	89-10-035	16-156-005	AMD-P	89-20-035
10-08-040	AMD	89-13-036	16-156-005	AMD-E	89-23-068
10-08-045	NEW-P	89-10-035	16-156-010	AMD-P	89-20-035
10-08-045	NEW	89-13-036	16-156-010	AMD-E	89-23-068
10-08-050	AMD-P	89-10-035	16-156-020	AMD-P	89-20-035
10-08-050	AMD	89-13-036	16-156-020	AMD-E	89-23-068
10-08-060	REP-P	89-10-035	16-156-030	AMD-P	89-20-035
10-08-060	REP	89-13-036	16-156-030	AMD-E	89-23-068
10-08-090	AMD-P	89-10-035	16-156-035	NEW-P	89-20-035
10-08-090	AMD	89-13-036	16-156-035	NEW-E	89-23-068
10-08-110	AMD-P	89-10-035	16-156-040	AMD-P	89-20-035
10-08-110	AMD	89-13-036	16-156-040	AMD-E	89-23-068
10-08-120	AMD-P	89-10-035	16-156-050	AMD-P	89-20-035
10-08-120	AMD	89-13-036	16-156-050	AMD-E	89-23-068
10-08-130	AMD-P	89-10-035	16-156-060	AMD-P	89-20-035
10-08-130	AMD	89-13-036	16-156-060	AMD-E	89-23-068
10-08-140	AMD-P	89-10-035	16-212-087	NEW-P	89-08-019
10-08-140	AMD	89-13-036	16-212-087	NEW	89-11-092
10-08-150	AMD-P	89-10-035	16-212-110	AMD-P	89-08-019
10-08-150	AMD	89-13-036	16-212-110	AMD	89-11-092
10-08-160	AMD-P	89-10-035	16-212-230	AMD-P	89-08-019
10-08-160	AMD	89-13-036	16-212-230	AMD	89-11-092
10-08-170	AMD-P	89-10-035	16-224-010	AMD-P	89-08-019
10-08-170	AMD	89-13-036	16-224-010	AMD	89-11-092
10-08-180	AMD-P	89-10-035	16-225-001	REP-P	89-08-019
10-08-180	AMD	89-13-036	16-225-001	REP	89-11-092
10-08-190	AMD-P	89-10-035	16-225-010	REP-P	89-08-019
10-08-190	AMD	89-13-036	16-225-010	REP	89-11-092
10-08-200	AMD-P	89-10-035	16-225-020	REP-P	89-08-019
10-08-200	AMD	89-13-036	16-225-020	REP	89-11-092

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
16-228-630	NEW-E 89-12-002	16-232-510	NEW-E 89-16-057	16-318-320	NEW-P 89-23-099
16-228-650	NEW-E 89-12-046	16-232-515	NEW-E 89-16-057	16-318-325	NEW-P 89-23-099
16-228-660	NEW-E 89-12-046	16-232-520	NEW-E 89-16-057	16-318-330	NEW-P 89-23-099
16-228-670	NEW-E 89-12-046	16-232-525	NEW-E 89-16-057	16-318-335	NEW-P 89-23-099
16-228-900	AMD-P 89-20-067	16-232-530	NEW-E 89-16-057	16-318-340	NEW-P 89-23-099
16-228-900	AMD 89-24-029	16-232-535	NEW-E 89-16-057	16-318-345	NEW-P 89-23-099
16-230	NEW-C 89-04-056	16-232-540	NEW-E 89-16-057	16-318-350	NEW-P 89-23-099
16-230	NEW-C 89-07-051	16-232-545	NEW-E 89-16-057	16-318-355	NEW-P 89-23-099
16-230-800	NEW-P 89-03-065	16-232-550	NEW-E 89-16-057	16-318-360	NEW-P 89-23-099
16-230-800	NEW-P 89-11-093	16-232-555	NEW-E 89-16-057	16-318-365	NEW-P 89-23-099
16-230-800	NEW 89-16-073	16-232-560	NEW-E 89-16-057	16-318-370	NEW-P 89-23-099
16-230-805	NEW-P 89-03-065	16-232-565	NEW-E 89-16-057	16-318-375	NEW-P 89-23-099
16-230-805	NEW-P 89-11-093	16-300-010	AMD-E 89-07-029	16-318-380	NEW-P 89-23-099
16-230-805	NEW 89-16-073	16-300-010	AMD-P 89-07-074	16-318-385	NEW-P 89-23-099
16-230-810	NEW-P 89-03-065	16-300-010	AMD 89-11-078	16-318-390	NEW-P 89-23-099
16-230-810	NEW-P 89-11-093	16-300-020	AMD-E 89-12-001	16-318-395	NEW-P 89-23-099
16-230-810	NEW 89-16-073	16-304-040	AMD-P 89-07-074	16-318-400	NEW-P 89-23-099
16-230-815	NEW-P 89-03-065	16-304-040	AMD 89-11-078	16-318-405	NEW-P 89-23-099
16-230-815	NEW-P 89-11-093	16-316-160	AMD-P 89-07-074	16-318-410	NEW-P 89-23-099
16-230-815	NEW 89-16-073	16-316-160	AMD 89-11-078	16-318-415	NEW-P 89-23-099
16-230-820	NEW-P 89-03-065	16-316-165	AMD-E 89-12-001	16-318-420	NEW-P 89-23-099
16-230-820	NEW-P 89-11-093	16-316-185	AMD-P 89-07-074	16-324-360	AMD-P 89-19-064
16-230-820	NEW 89-16-073	16-316-185	AMD 89-11-078	16-324-360	AMD 89-23-073
16-230-825	NEW-P 89-03-065	16-316-230	AMD-P 89-07-074	16-324-380	AMD-P 89-19-064
16-230-825	NEW-P 89-11-093	16-316-230	AMD 89-11-078	16-324-380	AMD 89-23-073
16-230-825	NEW 89-16-073	16-316-245	AMD-E 89-12-001	16-324-410	AMD-P 89-19-064
16-230-830	NEW-P 89-03-065	16-316-270	AMD-P 89-07-074	16-324-410	AMD 89-23-073
16-230-830	NEW-P 89-11-093	16-316-270	AMD 89-11-078	16-324-445	AMD-P 89-19-064
16-230-830	NEW 89-16-073	16-316-315	AMD-P 89-07-074	16-324-445	AMD 89-23-073
16-230-835	NEW-P 89-11-093	16-316-315	AMD 89-11-078	16-324-600	AMD-P 89-19-064
16-230-835	NEW 89-16-073	16-316-350	AMD-P 89-07-074	16-324-600	AMD 89-23-073
16-230-840	NEW-P 89-11-093	16-316-350	AMD-E 89-09-013	16-324-605	AMD-P 89-19-064
16-230-840	NEW 89-16-073	16-316-350	AMD 89-11-078	16-324-605	AMD 89-23-073
16-230-845	NEW-P 89-11-093	16-316-360	AMD-P 89-07-074	16-324-610	AMD-P 89-19-064
16-230-845	NEW 89-16-073	16-316-360	AMD 89-11-078	16-324-610	AMD 89-23-073
16-230-850	NEW-P 89-11-093	16-316-370	AMD-P 89-07-074	16-324-620	AMD-P 89-19-064
16-230-850	NEW 89-16-073	16-316-375	NEW-E 89-12-001	16-324-620	AMD 89-23-073
16-230-855	NEW-P 89-11-093	16-316-380	NEW-E 89-12-001	16-324-630	AMD-P 89-19-064
16-230-855	NEW 89-16-073	16-316-385	NEW-E 89-12-001	16-324-630	AMD 89-23-073
16-230-860	NEW-P 89-11-093	16-316-390	NEW-E 89-12-001	16-324-660	AMD-P 89-19-064
16-230-860	NEW 89-16-073	16-316-395	NEW-E 89-12-001	16-324-660	AMD 89-23-073
16-230-865	NEW-P 89-11-093	16-316-440	AMD-P 89-07-074	16-324-670	AMD-P 89-19-064
16-230-865	NEW 89-16-073	16-316-440	AMD 89-11-078	16-324-670	AMD 89-23-073
16-232-405	NEW-E 89-05-004	16-316-455	AMD-E 89-12-001	16-324-680	AMD-P 89-19-064
16-232-405	REP-E 89-08-006	16-316-474	AMD-P 89-07-074	16-324-680	AMD 89-23-073
16-232-415	NEW-E 89-05-004	16-316-474	AMD 89-11-078	16-333-050	AMD-P 89-12-063
16-232-415	REP-E 89-08-006	16-316-525	AMD-P 89-07-074	16-333-050	AMD 89-16-051
16-232-425	NEW-E 89-05-004	16-316-525	AMD 89-11-078	16-333-060	AMD-P 89-12-063
16-232-425	REP-E 89-08-006	16-316-620	AMD-E 89-12-001	16-333-060	AMD 89-16-051
16-232-435	NEW-E 89-05-004	16-316-660	AMD-P 89-07-074	16-400-007	AMD-P 89-05-040
16-232-435	REP-E 89-08-006	16-316-660	AMD 89-11-078	16-400-007	AMD 89-08-040
16-232-440	NEW-E 89-08-006	16-316-800	AMD-P 89-07-074	16-400-010	AMD-P 89-05-040
16-232-440	NEW-E 89-14-016	16-316-800	AMD 89-11-078	16-400-010	AMD 89-08-040
16-232-440	REP-E 89-16-057	16-316-810	AMD-P 89-07-074	16-400-040	AMD-P 89-05-040
16-232-445	NEW-E 89-05-004	16-316-810	AMD 89-11-078	16-400-040	AMD 89-08-040
16-232-445	REP-E 89-08-006	16-316-820	AMD-P 89-07-074	16-400-050	REP-P 89-05-040
16-232-450	NEW-E 89-08-006	16-316-820	AMD 89-11-078	16-400-050	REP 89-08-040
16-232-450	NEW-E 89-14-016	16-316-830	AMD-E 89-12-001	16-400-100	AMD-P 89-05-040
16-232-450	REP-E 89-16-057	16-317-040	AMD-P 89-24-066	16-400-100	AMD 89-08-040
16-232-455	NEW-E 89-05-004	16-317-050	AMD-P 89-24-066	16-400-150	AMD-P 89-05-040
16-232-455	REP-E 89-08-006	16-317-060	AMD-P 89-24-066	16-400-150	AMD 89-08-040
16-232-460	NEW-E 89-08-006	16-317-090	REP-P 89-24-066	16-400-210	AMD-P 89-05-040
16-232-460	NEW-E 89-14-016	16-318-040	AMD-P 89-23-099	16-400-210	AMD 89-08-040
16-232-460	REP-E 89-16-057	16-318-065	NEW-P 89-23-099	16-400-270	AMD-P 89-05-040
16-232-465	NEW-E 89-05-004	16-318-200	NEW-P 89-23-099	16-400-270	AMD 89-08-040
16-232-465	REP-E 89-08-006	16-318-205	NEW-P 89-23-099	16-403	AMD-C 89-13-047
16-232-470	NEW-E 89-08-006	16-318-210	NEW-P 89-23-099	16-403-142	AMD-P 89-09-011
16-232-470	NEW-E 89-14-016	16-318-215	NEW-P 89-23-099	16-403-142	AMD 89-14-031
16-232-470	REP-E 89-16-057	16-318-220	NEW-P 89-23-099	16-403-190	AMD-P 89-09-011
16-232-480	NEW-E 89-08-006	16-318-225	NEW-P 89-23-099	16-403-190	AMD 89-14-031
16-232-480	NEW-E 89-14-016	16-318-230	NEW-P 89-23-099	16-403-280	AMD-P 89-09-011
16-232-480	REP-E 89-16-057	16-318-235	NEW-P 89-23-099	16-403-280	AMD 89-14-031
16-232-490	NEW-E 89-08-006	16-318-240	NEW-P 89-23-099	16-528-020	AMD-P 89-04-049
16-232-490	NEW-E 89-14-016	16-318-300	NEW-P 89-23-099	16-528-020	AMD 89-08-020
16-232-490	REP-E 89-16-057	16-318-305	NEW-P 89-23-099	16-550-020	AMD-P 89-09-057
16-232-500	NEW-E 89-16-057	16-318-310	NEW-P 89-23-099	16-550-020	AMD 89-12-054
16-232-505	NEW-E 89-16-057	16-318-315	NEW-P 89-23-099	16-557-010	NEW-P 89-19-065

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
16-557-010	NEW-S	89-24-074	44-10-120	AMD	89-06-026
16-557-020	NEW-P	89-19-065	44-10-130	AMD-P	89-12-030
16-557-020	NEW-S	89-24-074	44-10-130	AMD-E	89-12-031
16-557-030	NEW-P	89-19-065	44-10-130	AMD	89-16-024
16-557-030	NEW-S	89-24-074	44-10-140	AMD-P	89-12-030
16-557-040	NEW-P	89-19-065	44-10-140	AMD-E	89-12-031
16-557-040	NEW-S	89-24-074	44-10-140	AMD	89-16-024
16-557-041	NEW-P	89-19-065	44-10-150	AMD-P	89-12-030
16-557-041	NEW-S	89-24-074	44-10-150	AMD-E	89-12-031
16-557-050	NEW-P	89-19-065	44-10-150	AMD	89-16-024
16-557-050	NEW-S	89-24-074	44-10-160	AMD-P	89-12-030
16-557-060	NEW-P	89-19-065	44-10-160	AMD-E	89-12-031
16-557-060	NEW-S	89-24-074	44-10-160	AMD	89-16-024
16-557-070	NEW-P	89-19-065	44-10-170	AMD-P	89-12-030
16-557-070	NEW-S	89-24-074	44-10-170	AMD-E	89-12-031
16-557-080	NEW-P	89-19-065	44-10-170	AMD	89-16-024
16-557-080	NEW-S	89-24-074	44-10-180	AMD-P	89-12-030
16-690-015	AMD-P	89-05-041	44-10-180	AMD-E	89-12-031
16-690-015	AMD	89-08-039	44-10-180	AMD	89-16-024
16-750-003	AMD-P	89-20-057	44-10-200	AMD-P	89-12-030
16-750-005	AMD-P	89-20-057	44-10-200	AMD-E	89-12-031
16-750-011	AMD-P	89-20-057	44-10-200	AMD	89-16-024
16-750-015	AMD-P	89-20-057	44-10-220	AMD-P	89-12-030
16-750-950	NEW-P	89-11-071	44-10-220	AMD-E	89-12-031
16-750-950	NEW-E	89-11-072	44-10-220	AMD	89-16-024
16-750-950	NEW	89-16-007	44-10-230	AMD-P	89-12-030
16-752-300	NEW-E	89-20-077	44-10-230	AMD-E	89-12-031
16-752-300	NEW-P	89-21-064	44-10-230	AMD	89-16-024
16-752-300	NEW	89-24-090	44-10-240	AMD-P	89-12-030
16-752-305	NEW-E	89-20-077	44-10-240	AMD-E	89-12-031
16-752-305	NEW-P	89-21-064	44-10-240	AMD	89-16-024
16-752-305	NEW	89-24-090	44-10-300	NEW	89-06-025
16-752-310	NEW-E	89-20-077	44-10-310	NEW	89-06-025
16-752-310	NEW-P	89-21-064	44-10-320	NEW	89-06-025
16-752-310	NEW	89-24-090	50-12-310	NEW-P	89-24-063
16-752-315	NEW-E	89-20-077	50-12-320	NEW-P	89-24-063
16-752-315	NEW-P	89-21-064	50-12-330	NEW-P	89-24-063
16-752-315	NEW	89-24-090	50-12-340	NEW-P	89-24-063
16-752-320	NEW-E	89-20-077	50-12-350	NEW-P	89-24-063
16-752-320	NEW-P	89-21-064	50-12-360	NEW-P	89-24-063
16-752-320	NEW	89-24-090	50-12-370	NEW-P	89-24-063
16-752-325	NEW-E	89-20-077	50-44-020	AMD-P	89-06-059
16-752-325	NEW-P	89-21-064	50-44-020	AMD	89-09-004
16-752-325	NEW	89-24-090	50-56-010	NEW-P	89-21-045
16-752-330	NEW-E	89-20-077	50-56-020	NEW-P	89-21-045
16-752-330	NEW-P	89-21-064	50-56-030	NEW-P	89-21-045
16-752-330	NEW	89-24-090	50-56-040	NEW-P	89-21-045
25-48-020	AMD-P	89-17-116	50-56-050	NEW-P	89-21-045
25-48-020	AMD-E	89-17-117	50-56-060	NEW-P	89-21-045
25-48-030	AMD-P	89-17-116	50-56-070	NEW-P	89-21-045
25-48-030	AMD-E	89-17-117	50-56-080	NEW-P	89-21-045
25-48-050	AMD-P	89-17-116	51-04	AMD-P	89-17-138
25-48-050	AMD-E	89-17-117	51-04-010	AMD-P	89-17-138
25-48-060	AMD-P	89-17-116	51-04-015	NEW-P	89-17-138
25-48-070	AMD-P	89-17-116	51-04-018	NEW-P	89-17-138
25-48-090	AMD-P	89-17-116	51-04-020	AMD-P	89-17-138
25-48-100	AMD-P	89-17-116	51-04-025	NEW-P	89-17-138
25-48-105	AMD-P	89-17-116	51-04-030	NEW-P	89-17-138
25-48-110	AMD-P	89-17-116	51-04-035	NEW-P	89-17-138
44-10-040	AMD-P	89-12-030	51-04-037	NEW-P	89-17-138
44-10-040	AMD-E	89-12-031	51-04-040	NEW-P	89-17-138
44-10-040	AMD	89-16-024	51-04-050	NEW-P	89-17-138
44-10-050	AMD-P	89-12-030	51-04-060	NEW-P	89-17-138
44-10-050	AMD-E	89-12-031	51-04-070	NEW-P	89-17-138
44-10-050	AMD	89-16-024	51-06-010	AMD-P	89-17-138
44-10-055	REP-P	89-12-030	51-06-020	AMD-P	89-17-138
44-10-055	REP-E	89-12-031	51-06-030	REP-P	89-17-138
44-10-055	REP	89-16-024	51-06-040	REP-P	89-17-138
44-10-060	AMD-P	89-12-030	51-06-050	REP-P	89-17-138
44-10-060	AMD-E	89-12-031	51-06-060	REP-P	89-17-138
44-10-060	AMD	89-16-024	51-06-070	AMD-P	89-17-138
44-10-100	AMD-P	89-12-030	51-06-080	REP-P	89-17-138
44-10-100	AMD-E	89-12-031	51-06-090	REP-P	89-17-138
44-10-100	AMD	89-16-024	51-06-100	REP-P	89-17-138
44-10-110	AMD-P	89-12-030	51-06-110	REP-P	89-17-138
44-10-110	AMD-E	89-12-031	51-06-120	AMD-P	89-17-138
44-10-110	AMD	89-16-024	51-08-010	AMD-P	89-17-138

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
98-14-100	NEW-P	89-05-054	131-28-026	AMD-P	89-06-054
98-14-100	NEW	89-08-043	131-28-026	AMD	89-14-037
98-16-020	AMD-P	89-05-054	131-28-030	AMD-P	89-06-054
98-16-020	AMD	89-08-043	131-28-030	AMD	89-14-037
98-20-010	REP-P	89-05-054	131-28-040	AMD-P	89-06-054
98-20-010	REP	89-08-043	131-28-040	AMD	89-14-037
98-20-020	AMD-P	89-05-054	131-28-045	AMD-P	89-06-054
98-20-020	AMD	89-08-043	131-28-045	AMD	89-14-037
98-40-020	AMD-P	89-05-054	131-28-080	AMD-P	89-06-054
98-40-020	AMD	89-08-043	131-28-080	AMD	89-14-037
98-40-030	AMD-P	89-05-054	131-28-085	AMD-P	89-06-054
98-40-030	AMD	89-08-043	131-28-085	AMD	89-14-037
98-40-040	AMD-P	89-05-054	131-28-090	AMD-P	89-06-054
98-40-040	AMD	89-08-043	131-28-090	AMD	89-14-037
98-40-050	AMD-P	89-05-054	132D-08-010	REP-P	89-07-061
98-40-050	AMD	89-08-043	132D-08-010	REP	89-11-023
98-40-070	AMD-P	89-05-054	132D-08-015	REP-P	89-07-061
98-40-070	AMD	89-08-043	132D-08-015	REP	89-11-023
98-40-080	AMD-P	89-05-054	132D-08-020	REP-P	89-07-061
98-40-080	AMD	89-08-043	132D-08-020	REP	89-11-023
98-70-010	AMD-P	89-03-032	132D-08-025	REP-P	89-07-061
98-70-010	AMD-E	89-03-033	132D-08-025	REP	89-11-023
98-70-010	AMD	89-06-074	132D-10-003	REP-P	89-07-069
100-100-070	AMD-E	89-21-089	132D-10-003	REP	89-11-022
106-116-201	AMD-P	89-19-026	132D-10-006	REP-P	89-07-069
106-116-201	AMD-E	89-19-027	132D-10-006	REP	89-11-022
106-116-203	AMD-P	89-19-026	132D-10-009	REP-P	89-07-069
106-116-203	AMD-E	89-19-027	132D-10-009	REP	89-11-022
106-116-205	AMD-P	89-19-026	132D-10-012	REP-P	89-07-069
106-116-205	AMD-E	89-19-027	132D-10-012	REP	89-11-022
106-116-207	AMD-P	89-19-026	132D-10-015	REP-P	89-07-069
106-116-207	AMD-E	89-19-027	132D-10-015	REP	89-11-022
106-116-208	AMD-P	89-19-026	132D-10-018	REP-P	89-07-069
106-116-208	AMD-E	89-19-027	132D-10-018	REP	89-11-022
106-116-210	AMD-P	89-19-026	132D-10-021	REP-P	89-07-069
106-116-210	AMD-E	89-19-027	132D-10-021	REP	89-11-022
106-116-301	AMD-P	89-19-026	132D-10-024	REP-P	89-07-069
106-116-301	AMD-E	89-19-027	132D-10-024	REP	89-11-022
106-116-311	AMD-P	89-19-026	132D-10-027	REP-P	89-07-069
106-116-311	AMD-E	89-19-027	132D-10-027	REP	89-11-022
106-116-514	AMD-P	89-19-026	132D-10-030	REP-P	89-07-069
106-116-514	AMD-E	89-19-027	132D-10-030	REP	89-11-022
106-116-601	AMD-P	89-19-026	132D-10-033	REP-P	89-07-069
106-116-601	AMD-E	89-19-027	132D-10-033	REP	89-11-022
106-116-603	AMD-P	89-19-026	132D-10-036	REP-P	89-07-069
106-116-603	AMD-E	89-19-027	132D-10-036	REP	89-11-022
113-12-104	NEW-P	89-12-083	132D-10-037	REP-P	89-07-069
113-12-195	AMD-P	89-12-083	132D-10-037	REP	89-11-022
113-12-195	AMD	89-16-095	132D-10-039	REP-P	89-07-069
114-12-125	REP-P	89-14-029	132D-10-039	REP	89-11-022
114-12-125	REP	89-18-085	132D-10-042	REP-P	89-07-069
114-12-126	NEW-P	89-14-029	132D-10-042	REP	89-11-022
114-12-126	NEW	89-18-085	132D-10-045	REP-P	89-07-069
114-12-132	AMD-P	89-18-082	132D-10-045	REP	89-11-022
114-12-132	AMD	89-21-058	132D-10-048	REP-P	89-07-069
114-12-145	REP-P	89-14-029	132D-10-048	REP	89-11-022
114-12-145	REP	89-18-085	132D-10-051	REP-P	89-07-069
114-12-155	AMD-P	89-14-102	132D-10-051	REP	89-11-022
114-12-155	AMD	89-18-086	132D-10-054	REP-P	89-07-069
114-12-160	NEW-P	89-14-029	132D-10-054	REP	89-11-022
114-12-160	REP	89-18-085	132D-10-057	REP-P	89-07-069
114-12-164	NEW-P	89-14-029	132D-10-057	REP	89-11-022
114-12-164	NEW	89-18-085	132D-10-060	REP-P	89-07-069
114-12-170	AMD-P	89-14-029	132D-10-060	REP	89-11-022
114-12-170	AMD	89-18-085	132D-10-063	REP-P	89-07-069
114-12-190	NEW-P	89-14-029	132D-10-063	REP	89-11-022
114-12-190	NEW	89-18-085	132D-10-066	REP-P	89-07-069
131-08-010	AMD-P	89-19-022	132D-10-066	REP	89-11-022
131-08-010	AMD	89-22-063	132D-10-069	REP-P	89-07-069
131-28	AMD-C	89-09-056	132D-10-069	REP	89-11-022
131-28	AMD-C	89-11-079	132D-10-072	REP-P	89-07-069
131-28-015	AMD-P	89-06-054	132D-10-072	REP	89-11-022
131-28-015	AMD	89-14-037	132D-10-075	REP-P	89-07-069
131-28-021	AMD-P	89-06-054	132D-10-075	REP	89-11-022
131-28-021	AMD	89-14-037	132D-10-078	REP-P	89-07-069
131-28-025	AMD-P	89-06-054	132D-10-078	REP	89-11-022
131-28-025	AMD	89-14-037	132D-10-084	REP-P	89-07-069
					132D-10-290
					REP

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
132D-10-293	REP-P	89-07-069	132D-10-407	REP	89-11-022
132D-10-293	REP	89-11-022	132D-10-408	REP-P	89-07-069
132D-10-296	REP-P	89-07-069	132D-10-408	REP	89-11-022
132D-10-296	REP	89-11-022	132D-10-410	REP-P	89-07-069
132D-10-299	REP-P	89-07-069	132D-10-410	REP	89-11-022
132D-10-299	REP	89-11-022	132D-10-413	REP-P	89-07-069
132D-10-302	REP-P	89-07-069	132D-10-413	REP	89-11-022
132D-10-302	REP	89-11-022	132D-10-416	REP-P	89-07-069
132D-10-305	REP-P	89-07-069	132D-10-416	REP	89-11-022
132D-10-305	REP	89-11-022	132D-10-419	REP-P	89-07-069
132D-10-308	REP-P	89-07-069	132D-10-419	REP	89-11-022
132D-10-308	REP	89-11-022	132D-10-422	REP-P	89-07-069
132D-10-311	REP-P	89-07-069	132D-10-422	REP	89-11-022
132D-10-311	REP	89-11-022	132D-10-425	REP-P	89-07-069
132D-10-314	REP-P	89-07-069	132D-10-425	REP	89-11-022
132D-10-314	REP	89-11-022	132D-10-428	REP-P	89-07-069
132D-10-317	REP-P	89-07-069	132D-10-428	REP	89-11-022
132D-10-317	REP	89-11-022	132D-10-431	REP-P	89-07-069
132D-10-320	REP-P	89-07-069	132D-10-431	REP	89-11-022
132D-10-320	REP	89-11-022	132D-10-434	REP-P	89-07-069
132D-10-323	REP-P	89-07-069	132D-10-434	REP	89-11-022
132D-10-323	REP	89-11-022	132D-12-010	REP-P	89-05-012
132D-10-326	REP-P	89-07-069	132D-12-010	REP-W	89-05-046
132D-10-326	REP	89-11-022	132D-12-010	REP-P	89-05-047
132D-10-329	REP-P	89-07-069	132D-12-010	REP	89-09-038
132D-10-329	REP	89-11-022	132D-12-015	REP-P	89-05-012
132D-10-332	REP-P	89-07-069	132D-12-015	REP-W	89-05-046
132D-10-332	REP	89-11-022	132D-12-015	REP-P	89-05-047
132D-10-335	REP-P	89-07-069	132D-12-015	REP	89-09-038
132D-10-335	REP	89-11-022	132D-12-020	REP-P	89-05-012
132D-10-338	REP-P	89-07-069	132D-12-020	REP-W	89-05-046
132D-10-338	REP	89-11-022	132D-12-020	REP-P	89-05-047
132D-10-341	REP-P	89-07-069	132D-12-020	REP	89-09-038
132D-10-341	REP	89-11-022	132D-18-010	REP-P	89-07-062
132D-10-344	REP-P	89-07-069	132D-18-010	REP	89-11-024
132D-10-344	REP	89-11-022	132D-18-020	REP-P	89-07-062
132D-10-347	REP-P	89-07-069	132D-18-020	REP	89-11-024
132D-10-347	REP	89-11-022	132D-18-030	REP-P	89-07-062
132D-10-350	REP-P	89-07-069	132D-18-030	REP	89-11-024
132D-10-350	REP	89-11-022	132D-18-040	REP-P	89-07-062
132D-10-353	REP-P	89-07-069	132D-18-040	REP	89-11-024
132D-10-353	REP	89-11-022	132D-18-050	REP-P	89-07-062
132D-10-356	REP-P	89-07-069	132D-18-050	REP	89-11-024
132D-10-356	REP	89-11-022	132D-18-060	REP-P	89-07-062
132D-10-359	REP-P	89-07-069	132D-18-060	REP	89-11-024
132D-10-359	REP	89-11-022	132D-18-060	REP-P	89-07-062
132D-10-362	REP-P	89-07-069	132D-18-070	REP-P	89-07-062
132D-10-362	REP	89-11-022	132D-18-080	REP-P	89-07-062
132D-10-365	REP-P	89-07-069	132D-18-080	REP	89-11-024
132D-10-365	REP	89-11-022	132D-18-090	REP-P	89-07-062
132D-10-368	REP-P	89-07-069	132D-18-090	REP	89-11-024
132D-10-368	REP	89-11-022	132D-18-100	REP-P	89-07-062
132D-10-371	REP-P	89-07-069	132D-18-100	REP	89-11-024
132D-10-371	REP	89-11-022	132D-18-110	REP-P	89-07-062
132D-10-374	REP-P	89-07-069	132D-18-110	REP	89-11-024
132D-10-374	REP	89-11-022	132D-18-120	REP-P	89-07-062
132D-10-377	REP-P	89-07-069	132D-18-120	REP	89-11-024
132D-10-377	REP	89-11-022	132D-18-130	REP-P	89-07-062
132D-10-380	REP-P	89-07-069	132D-18-130	REP	89-11-024
132D-10-380	REP	89-11-022	132D-18-140	REP-P	89-07-062
132D-10-383	REP-P	89-07-069	132D-18-140	REP	89-11-024
132D-10-383	REP	89-11-022	132D-18-150	REP-P	89-07-062
132D-10-386	REP-P	89-07-069	132D-18-150	REP	89-11-024
132D-10-386	REP	89-11-022	132D-20-010	REP-P	89-05-012
132D-10-389	REP-P	89-07-069	132D-20-010	REP-W	89-05-046
132D-10-389	REP	89-11-022	132D-20-010	REP-P	89-07-070
132D-10-392	REP-P	89-07-069	132D-20-010	REP	89-11-025
132D-10-392	REP	89-11-022	132D-20-020	REP-P	89-05-012
132D-10-395	REP-P	89-07-069	132D-20-020	REP-W	89-05-046
132D-10-395	REP	89-11-022	132D-20-020	REP-P	89-07-070
132D-10-398	REP-P	89-07-069	132D-20-020	REP	89-11-025
132D-10-398	REP	89-11-022	132D-20-030	REP-P	89-05-012
132D-10-401	REP-P	89-07-069	132D-20-030	REP-W	89-05-046
132D-10-401	REP	89-11-022	132D-20-030	REP-P	89-07-070
132D-10-404	REP-P	89-07-069	132D-20-030	REP	89-11-025
132D-10-404	REP	89-11-022	132D-20-040	REP-P	89-05-012
132D-10-404	REP-P	89-07-069	132D-20-040	REP-W	89-05-046
132D-10-407	REP-P	89-07-069	132D-20-040	REP-P	89-07-070

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
132D-20-230	REP	89-11-025	132D-280-010	NEW-P	89-07-063
132D-20-240	REP-P	89-05-012	132D-280-010	NEW	89-11-044
132D-20-240	REP-W	89-05-046	132D-280-020	NEW-P	89-07-063
132D-20-240	REP-P	89-07-070	132D-280-020	NEW	89-11-044
132D-20-240	REP	89-11-025	132D-280-025	NEW-P	89-07-063
132D-20-250	REP-P	89-05-012	132D-280-025	NEW	89-11-044
132D-20-250	REP-W	89-05-046	132D-280-030	NEW-P	89-07-063
132D-20-250	REP-P	89-07-070	132D-280-030	NEW	89-11-044
132D-20-250	REP	89-11-025	132D-280-035	NEW-P	89-07-063
132D-20-260	REP-P	89-05-012	132D-280-035	NEW	89-11-044
132D-20-260	REP-W	89-05-046	132D-280-040	NEW-P	89-07-063
132D-20-260	REP-P	89-07-070	132D-280-040	NEW	89-11-044
132D-20-260	REP	89-11-025	132D-300-010	NEW-P	89-07-058
132D-20-270	REP-P	89-05-012	132D-300-010	NEW	89-11-038
132D-20-270	REP-W	89-05-046	132D-300-020	NEW-P	89-07-058
132D-20-270	REP-P	89-07-070	132D-300-020	NEW	89-11-038
132D-20-270	REP	89-11-025	132D-300-030	NEW-P	89-07-058
132D-20-280	REP-P	89-05-012	132D-300-030	NEW	89-11-038
132D-20-280	REP-W	89-05-046	132D-325-010	NEW-P	89-05-048
132D-20-280	REP-P	89-07-070	132D-325-010	NEW	89-09-042
132D-20-280	REP	89-11-025	132D-350-010	NEW-P	89-07-064
132D-20-290	REP-P	89-05-012	132D-350-010	NEW	89-11-026
132D-20-290	REP-W	89-05-046	132D-350-020	NEW-P	89-07-064
132D-20-290	REP-P	89-07-070	132D-350-020	NEW	89-11-026
132D-20-290	REP	89-11-025	132D-350-030	NEW-P	89-07-064
132D-36-010	REP-P	89-05-048	132D-350-030	NEW	89-11-026
132D-36-010	REP	89-09-042	132D-350-040	NEW-P	89-07-064
132D-104-010	NEW-P	89-07-061	132D-350-040	NEW	89-11-026
132D-104-010	NEW	89-11-023	132D-350-050	NEW-P	89-07-064
132D-104-020	NEW-P	89-07-061	132D-350-050	NEW	89-11-026
132D-104-020	NEW	89-11-023	132F-120-090	AMD-P	89-08-069
132D-104-030	NEW-P	89-07-061	132F-120-090	AMD	89-14-025
132D-104-030	NEW	89-11-023	132F-120-090	AMD	89-15-000
132D-104-040	NEW-P	89-07-061	132I-120-315	AMD-P	89-04-039
132D-104-040	NEW	89-11-023	132I-120-315	AMD	89-08-016
132D-122-010	NEW-P	89-05-006	132I-120-400	AMD-P	89-04-039
132D-122-010	NEW	89-09-039	132I-120-400	AMD	89-08-016
132D-122-020	NEW-P	89-05-006	132I-120-405	AMD-P	89-04-039
132D-122-020	NEW	89-09-039	132I-120-405	AMD	89-08-016
132D-122-030	NEW-P	89-05-006	132I-120-410	AMD-P	89-04-039
132D-122-030	NEW	89-09-039	132I-120-410	AMD	89-08-016
132D-140-010	NEW	89-06-012	132I-120-425	AMD-P	89-04-039
132D-140-020	NEW	89-06-012	132I-120-425	AMD	89-08-016
132D-140-030	NEW	89-06-012	132I-120-430	AMD-P	89-04-039
132D-140-040	NEW	89-06-012	132I-120-430	AMD	89-08-016
132D-140-050	NEW	89-06-012	132I-136-010	REP-P	89-08-015
132D-140-060	NEW	89-06-012	132I-136-010	REP	89-11-091
132D-140-070	NEW	89-06-012	132I-136-020	REP-P	89-08-015
132D-140-080	NEW	89-06-012	132I-136-020	REP	89-11-091
132D-276-010	NEW-P	89-07-062	132I-136-030	REP-P	89-08-015
132D-276-010	NEW	89-11-024	132I-136-030	REP	89-11-091
132D-276-020	NEW-P	89-07-062	132I-136-040	REP-P	89-08-015
132D-276-020	NEW	89-11-024	132I-136-040	REP	89-11-091
132D-276-030	NEW-P	89-07-062	132I-136-050	REP-P	89-08-015
132D-276-030	NEW	89-11-024	132I-136-050	REP	89-11-091
132D-276-040	NEW-P	89-07-062	132I-136-060	REP-P	89-08-015
132D-276-040	NEW	89-11-024	132I-136-060	REP	89-11-091
132D-276-050	NEW-P	89-07-062	132I-136-070	REP-P	89-08-015
132D-276-050	NEW	89-11-024	132I-136-070	REP	89-11-091
132D-276-060	NEW-P	89-07-062	132I-136-080	REP-P	89-08-015
132D-276-060	NEW	89-11-024	132I-136-080	REP	89-11-091
132D-276-070	NEW-P	89-07-062	132I-136-100	NEW-P	89-08-015
132D-276-070	NEW	89-11-024	132I-136-100	NEW	89-11-091
132D-276-080	NEW-P	89-07-062	132I-136-110	NEW-P	89-08-015
132D-276-080	NEW	89-11-024	132I-136-110	NEW	89-11-091
132D-276-090	NEW-P	89-07-062	132I-136-120	NEW-P	89-08-015
132D-276-090	NEW	89-11-024	132I-136-120	NEW	89-11-091
132D-276-100	NEW-P	89-07-062	132I-136-130	NEW-P	89-08-015
132D-276-100	NEW	89-11-024	132I-136-130	NEW	89-11-091
132D-276-110	NEW-P	89-07-062	132I-136-140	NEW-P	89-08-015
132D-276-110	NEW	89-11-024	132I-136-140	NEW	89-11-091
132D-276-110	NEW	89-11-024	132I-136-140	REP-P	89-22-053
132D-276-120	NEW-P	89-07-062	132I-136-150	NEW-P	89-08-015
132D-276-120	NEW	89-11-024	132I-136-150	NEW	89-11-091
132D-276-130	NEW-P	89-07-062	132I-136-160	NEW-P	89-08-015
132D-276-130	NEW	89-11-024	132I-136-160	NEW	89-11-091
132D-276-140	NEW-P	89-07-062	132I-136-170	NEW-P	89-08-015
132D-276-140	NEW	89-11-024	132I-136-170	NEW	89-11-091
132D-276-140	NEW-P	89-07-062	132I-136-170	NEW	89-11-091

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
132R-17-170	REP-P	89-22-053	132R-185-010	REP-P	89-22-053
132R-17-180	REP-P	89-22-053	132R-185-020	REP-P	89-22-053
132R-17-190	REP-P	89-22-053	132R-185-030	REP-P	89-22-053
132R-17-200	REP-P	89-22-053	132R-185-040	REP-P	89-22-053
132R-17-210	REP-P	89-22-053	132R-185-050	REP-P	89-22-053
132R-116-040	AMD-P	89-22-054	132R-185-060	REP-P	89-22-053
132R-116-050	AMD-P	89-22-054	132R-185-070	REP-P	89-22-053
132R-116-060	AMD-P	89-22-054	132R-185-080	REP-P	89-22-053
132R-116-070	AMD-P	89-22-054	132R-190-010	AMD-P	89-22-054
132R-116-080	AMD-P	89-22-054	132R-195-010	REP-P	89-22-053
132R-116-090	AMD-P	89-22-054	132R-200-010	AMD-P	89-22-054
132R-116-100	AMD-P	89-22-054	132T-104	REP-P	89-23-045
132R-116-110	AMD-P	89-22-054	132T-104-010	REP-P	89-23-045
132R-116-120	AMD-P	89-22-054	132T-104-020	REP-P	89-23-045
132R-116-130	AMD-P	89-22-054	132T-104-030	REP-P	89-23-045
132R-116-140	AMD-P	89-22-054	132T-104-040	REP-P	89-23-045
132R-116-150	AMD-P	89-22-054	132T-104-060	REP-P	89-23-045
132R-116-160	REP-P	89-22-054	132T-104-070	REP-P	89-23-045
132R-116-170	REP-P	89-22-054	132T-104-080	REP-P	89-23-045
132R-116-180	REP-P	89-22-054	132T-104-090	REP-P	89-23-045
132R-116-190	REP-P	89-22-054	132T-104-100	REP-P	89-23-045
132R-116-200	REP-P	89-22-054	132T-104-110	REP-P	89-23-045
132R-116-210	REP-P	89-22-054	132T-104-120	REP-P	89-23-045
132R-116-220	REP-P	89-22-054	132T-104-121	REP-P	89-23-045
132R-116-230	REP-P	89-22-054	132T-104-130	REP-P	89-23-045
132R-116-240	REP-P	89-22-054	132T-104-200	REP-P	89-23-045
132R-116-250	REP-P	89-22-054	132T-104-210	REP-P	89-23-045
132R-116-260	REP-P	89-22-054	132T-104-240	REP-P	89-23-045
132R-116-270	REP-P	89-22-054	132T-104-250	REP-P	89-23-045
132R-116-280	REP-P	89-22-054	132T-104-260	REP-P	89-23-045
132R-116-290	REP-P	89-22-054	132T-104-265	REP-P	89-23-045
132R-118-010	AMD-P	89-22-054	132T-104-270	REP-P	89-23-045
132R-118-020	AMD-P	89-22-054	132T-104-280	REP-P	89-23-045
132R-118-030	AMD-P	89-22-054	132V-15	NEW-C	89-17-005
132R-118-040	AMD-P	89-22-054	132V-15-010	NEW-P	89-13-072
132R-118-050	AMD-P	89-22-054	132V-15-010	NEW	89-20-013
132R-118-060	REP-P	89-22-054	132V-15-020	NEW-P	89-13-072
132R-130-010	REP-P	89-22-053	132V-15-020	NEW	89-20-013
132R-132-010	REP-P	89-22-053	132V-15-030	NEW-P	89-13-072
132R-132-020	REP-P	89-22-053	132V-15-030	NEW	89-20-013
132R-136-010	AMD-P	89-22-054	132V-15-040	NEW-P	89-13-072
132R-136-020	AMD-P	89-22-054	132V-15-040	NEW	89-20-013
132R-136-030	AMD-P	89-22-054	132V-15-050	NEW-P	89-13-072
132R-136-040	AMD-P	89-22-054	132V-15-050	NEW	89-20-013
132R-136-050	REP-P	89-22-054	132V-15-060	NEW-P	89-13-072
132R-140-010	REP-P	89-22-053	132V-15-060	NEW	89-20-013
132R-140-020	REP-P	89-22-053	132V-15-070	NEW-P	89-13-072
132R-140-030	REP-P	89-22-053	132V-15-070	NEW	89-20-013
132R-144-010	AMD-P	89-22-054	132V-15-080	NEW-P	89-13-072
132R-150-010	AMD-P	89-22-054	132V-15-080	NEW	89-20-013
132R-150-020	AMD-P	89-22-054	132V-15-090	NEW-P	89-13-072
132R-156-010	REP-P	89-22-053	132V-15-090	NEW	89-20-013
132R-156-020	REP-P	89-22-053	132V-15-100	NEW-P	89-13-072
132R-156-030	REP-P	89-22-053	132V-15-100	NEW	89-20-013
132R-158-010	AMD-P	89-22-054	132V-15-110	NEW-P	89-13-072
132R-158-020	REP-P	89-22-054	132V-15-110	NEW	89-20-013
132R-158-030	REP-P	89-22-054	132V-15-120	NEW-P	89-13-072
132R-158-040	REP-P	89-22-054	132V-15-120	NEW	89-20-013
132R-158-050	REP-P	89-22-054	132Y-300-001	NEW	89-04-008
132R-158-060	REP-P	89-22-054	132Y-300-002	NEW	89-04-008
132R-158-070	REP-P	89-22-054	132Y-300-003	NEW	89-04-008
132R-158-080	REP-P	89-22-054	132Y-300-004	NEW	89-04-008
132R-158-090	REP-P	89-22-054	132Y-310-010	NEW-P	89-08-023
132R-158-100	REP-P	89-22-054	132Y-310-010	NEW	89-12-056
132R-158-110	REP-P	89-22-054	132Y-310-020	NEW-P	89-08-023
132R-158-120	REP-P	89-22-054	132Y-310-020	NEW	89-12-056
132R-158-130	REP-P	89-22-054	132Y-310-030	NEW-P	89-08-023
132R-158-140	REP-P	89-22-054	132Y-310-030	NEW	89-12-056
132R-158-150	REP-P	89-22-054	132Y-310-040	NEW-P	89-08-023
132R-158-160	REP-P	89-22-054	132Y-310-040	NEW	89-12-056
132R-158-170	REP-P	89-22-054	132Y-320-010	NEW-P	89-08-022
132R-158-180	REP-P	89-22-054	132Y-320-010	NEW	89-12-057
132R-158-190	REP-P	89-22-054	132Y-320-020	NEW-P	89-08-022
132R-160-010	REP-P	89-22-053	132Y-320-020	NEW	89-12-057
132R-160-020	REP-P	89-22-053	132Y-320-030	NEW-P	89-08-022
132R-160-030	REP-P	89-22-053	132Y-320-030	NEW	89-12-057
132R-160-040	REP-P	89-22-053	132Y-320-040	NEW-P	89-08-022

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
137-56-060	AMD-P	89-02-058	154-12-010	AMD-P	89-16-100
137-56-060	AMD-C	89-07-083	154-12-010	AMD	89-20-021
137-56-070	AMD-P	89-02-058	154-12-015	AMD-P	89-16-100
137-56-070	AMD-C	89-07-083	154-12-015	AMD	89-20-021
137-56-080	AMD-P	89-02-058	154-12-020	AMD-P	89-07-090
137-56-080	AMD-C	89-07-083	154-12-020	AMD-E	89-11-008
137-56-090	AMD-P	89-02-058	154-12-020	AMD	89-11-010
137-56-090	AMD-C	89-07-083	154-12-030	AMD-P	89-07-090
137-56-095	AMD-P	89-02-058	154-12-030	AMD-E	89-11-008
137-56-095	AMD-C	89-07-083	154-12-030	AMD	89-11-010
137-56-100	AMD-P	89-02-058	154-12-040	AMD-P	89-07-090
137-56-100	AMD-C	89-07-083	154-12-040	AMD-E	89-11-008
137-56-110	AMD-P	89-02-058	154-12-040	AMD	89-11-010
137-56-110	AMD-C	89-07-083	154-12-050	AMD-P	89-07-090
137-56-120	AMD-P	89-02-058	154-12-050	AMD-E	89-11-008
137-56-120	AMD-C	89-07-083	154-12-050	AMD	89-11-010
137-56-140	AMD-P	89-02-058	154-12-060	REP-P	89-07-090
137-56-140	AMD-C	89-07-083	154-12-060	REP-E	89-11-008
137-56-150	AMD-P	89-02-058	154-12-060	REP	89-11-010
137-56-150	AMD-C	89-07-083	154-12-070	AMD-P	89-07-090
137-56-160	AMD-P	89-02-058	154-12-070	AMD-E	89-11-008
137-56-160	AMD-C	89-07-083	154-12-070	AMD	89-11-010
137-56-170	AMD-P	89-02-058	154-12-075	NEW-P	89-07-090
137-56-170	AMD-C	89-07-083	154-12-075	NEW-E	89-11-008
137-56-180	AMD-P	89-02-058	154-12-075	NEW	89-11-010
137-56-180	AMD-C	89-07-083	154-12-080	AMD-P	89-07-090
137-56-190	AMD-P	89-02-058	154-12-080	AMD-E	89-11-008
137-56-190	AMD-C	89-07-083	154-12-080	AMD	89-11-010
137-56-200	AMD-P	89-02-058	154-12-085	NEW-P	89-07-090
137-56-200	AMD-C	89-07-083	154-12-085	NEW-E	89-11-008
137-56-210	AMD-P	89-02-058	154-12-085	NEW	89-11-010
137-56-210	AMD-C	89-07-083	154-12-086	NEW-P	89-07-090
137-56-220	AMD-P	89-02-058	154-12-086	NEW-E	89-11-008
137-56-220	AMD-C	89-07-083	154-12-086	NEW	89-11-010
137-56-230	AMD-P	89-02-058	154-12-087	NEW-P	89-07-090
137-56-230	AMD-C	89-07-083	154-12-087	NEW-E	89-11-008
137-56-240	AMD-P	89-02-058	154-12-087	NEW	89-11-010
137-56-240	AMD-C	89-07-083	154-12-090	AMD-P	89-07-090
137-56-250	AMD-P	89-02-058	154-12-090	AMD-E	89-11-008
137-56-250	AMD-C	89-07-083	154-12-090	AMD	89-11-010
137-70-040	AMD-P	89-07-075	154-12-100	REP-P	89-07-090
137-70-040	AMD	89-12-003	154-12-100	REP-E	89-11-008
137-78-010	NEW-P	89-11-108	154-12-100	REP	89-11-010
137-78-010	NEW	89-15-059	154-12-107	NEW-P	89-07-090
137-78-020	NEW-P	89-11-108	154-12-107	NEW-E	89-11-008
137-78-020	NEW	89-15-059	154-12-107	NEW	89-11-010
137-78-030	NEW-P	89-11-108	154-12-110	AMD-P	89-07-090
137-78-030	NEW	89-15-059	154-12-110	AMD-E	89-11-008
137-78-040	NEW-P	89-11-108	154-12-110	AMD	89-11-010
137-78-040	NEW	89-15-059	154-16-010	REP-P	89-07-090
137-78-050	NEW-P	89-11-108	154-16-010	REP-E	89-11-008
137-78-050	NEW	89-15-059	154-16-010	REP	89-11-010
137-78-060	NEW-P	89-11-108	154-16-020	REP-P	89-07-090
137-78-060	NEW	89-15-059	154-16-020	REP-E	89-11-008
137-78-070	NEW-P	89-11-108	154-16-020	REP	89-11-010
137-78-070	NEW	89-15-059	154-20-010	REP-P	89-07-090
139-05-200	AMD-P	89-07-049	154-20-010	REP-E	89-11-008
139-05-200	AMD-E	89-07-050	154-20-010	REP	89-11-010
139-05-200	AMD	89-13-024	154-20-020	REP-P	89-07-090
139-05-230	AMD-P	89-07-048	154-20-020	REP-E	89-11-008
139-05-230	AMD	89-13-023	154-20-020	REP	89-11-010
143-06-990	REP	89-05-007	154-24-010	AMD-P	89-07-090
154-04-040	REP-P	89-07-090	154-24-010	AMD-E	89-11-008
154-04-040	REP-E	89-11-008	154-24-010	AMD	89-11-010
154-04-040	REP	89-11-010	154-32-010	AMD-P	89-07-090
154-04-060	REP-P	89-07-090	154-32-010	AMD-E	89-11-008
154-04-060	REP-E	89-11-008	154-32-010	AMD	89-11-010
154-04-060	REP	89-11-010	154-32-020	AMD-P	89-07-090
154-04-065	NEW-P	89-07-090	154-32-020	AMD-E	89-11-008
154-04-065	NEW-E	89-11-008	154-32-020	AMD	89-11-010
154-04-065	NEW	89-11-010	154-68-020	AMD-P	89-07-090
154-04-090	REP-P	89-07-090	154-68-020	AMD-E	89-11-008
154-04-090	REP-E	89-11-008	154-68-020	AMD	89-11-010
154-04-090	REP	89-11-010	154-120-015	AMD-P	89-07-089
154-12-010	AMD-P	89-07-090	154-120-015	AMD-E	89-11-009
154-12-010	AMD-E	89-11-008	154-120-015	AMD	89-11-011
154-12-010	AMD	89-11-010	154-130-020	AMD-P	89-15-061

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
162-08-116	REP-P	89-17-098	162-08-301	RE-AD	89-23-020
162-08-116	REP	89-23-020	162-08-305	RE-AD-P	89-17-098
162-08-121	REP-P	89-17-098	162-08-305	RE-AD	89-23-020
162-08-121	REP	89-23-020	162-08-311	RE-AD-P	89-17-098
162-08-131	REP-P	89-17-098	162-08-311	RE-AD	89-23-020
162-08-131	REP	89-23-020	162-08-600	RE-AD-P	89-17-098
162-08-135	REP-P	89-17-098	162-08-600	RE-AD	89-23-020
162-08-135	REP	89-23-020	162-08-610	RE-AD-P	89-17-098
162-08-141	REP-P	89-17-098	162-08-610	RE-AD	89-23-020
162-08-141	REP	89-23-020	162-08-621	REP-P	89-17-098
162-08-151	REP-P	89-17-098	162-08-621	REP	89-23-020
162-08-151	REP	89-23-020	162-08-700	RE-AD-P	89-17-098
162-08-155	REP-P	89-17-098	162-08-700	RE-AD	89-23-020
162-08-155	REP	89-23-020	173-06-030	AMD-E	89-04-013
162-08-161	REP-P	89-17-098	173-06-030	AMD-P	89-08-078
162-08-161	REP	89-23-020	173-06-030	AMD-E	89-08-079
162-08-171	REP-P	89-17-098	173-06-030	AMD	89-11-021
162-08-171	REP	89-23-020	173-18-090	AMD-P	89-23-125
162-08-190	RE-AD-P	89-17-098	173-18-090	AMD-E	89-24-067
162-08-190	RE-AD	89-23-020	173-18-200	AMD-P	89-23-125
162-08-201	RE-AD-P	89-17-098	173-18-200	AMD-E	89-24-067
162-08-201	RE-AD	89-23-020	173-19-110	AMD-W	89-03-012
162-08-211	RE-AD-P	89-17-098	173-19-1104	AMD-P	89-21-087
162-08-211	RE-AD	89-23-020	173-19-130	AMD-P	89-17-152
162-08-212	REP-P	89-17-098	173-19-130	AMD	89-22-139
162-08-212	REP	89-23-020	173-19-240	AMD	89-08-012
162-08-215	REP-P	89-17-098	173-19-2401	AMD	89-08-035
162-08-215	REP	89-23-020	173-19-2503	AMD-P	89-08-112
162-08-217	REP-P	89-17-098	173-19-2503	AMD-C	89-12-087
162-08-217	REP	89-23-020	173-19-2503	AMD-C	89-16-028
162-08-221	RE-AD-P	89-17-098	173-19-2503	AMD	89-20-016
162-08-221	RE-AD	89-23-020	173-19-2505	AMD-P	89-09-076
162-08-231	RE-AD-P	89-17-098	173-19-2505	AMD-W	89-14-128
162-08-231	RE-AD	89-23-020	173-19-2505	AMD-P	89-22-136
162-08-241	RE-AD-P	89-17-098	173-19-2505	AMD-C	89-23-126
162-08-241	RE-AD	89-23-020	173-19-2512	AMD	89-03-009
162-08-251	RE-AD-P	89-17-098	173-19-2512	AMD-P	89-17-153
162-08-251	RE-AD	89-23-020	173-19-2515	AMD	89-03-011
162-08-253	NEW-P	89-17-098	173-19-2519	AMD-P	89-09-075
162-08-253	NEW	89-23-020	173-19-2519	AMD-W	89-12-071
162-08-255	NEW-P	89-17-098	173-19-2519	AMD-P	89-21-086
162-08-255	NEW	89-23-020	173-19-3503	AMD-P	89-15-044
162-08-261	RE-AD-P	89-17-098	173-19-3503	AMD	89-22-138
162-08-261	RE-AD	89-23-020	173-19-360	AMD	89-09-077
162-08-263	NEW-P	89-17-098	173-19-390	AMD	89-07-026
162-08-263	NEW	89-23-020	173-19-390	AMD-P	89-08-114
162-08-265	RE-AD-P	89-17-098	173-19-390	AMD	89-14-130
162-08-265	RE-AD	89-23-020	173-19-3910	AMD-P	89-08-115
162-08-268	RE-AD-P	89-17-098	173-19-3910	AMD	89-14-131
162-08-268	RE-AD	89-23-020	173-19-4501	AMD-P	89-08-113
162-08-271	RE-AD-P	89-17-098	173-19-4501	AMD-C	89-14-129
162-08-271	RE-AD	89-23-020	173-19-4501	AMD-W	89-17-032
162-08-275	REP-P	89-17-098	173-19-4501	AMD-P	89-17-033
162-08-275	REP	89-23-020	173-19-4501	AMD-W	89-17-154
162-08-278	REP-P	89-17-098	173-19-4501	AMD-P	89-17-155
162-08-278	REP	89-23-020	173-19-4501	AMD-C	89-22-137
162-08-282	RE-AD-P	89-17-098	173-19-4501	AMD	89-23-127
162-08-282	RE-AD	89-23-020	173-19-4507	AMD	89-03-010
162-08-284	REP-P	89-17-098	173-20-700	AMD-W	89-07-025
162-08-284	REP	89-23-020	173-50	NEW-C	89-07-032
162-08-286	RE-AD-P	89-17-098	173-50-010	NEW-P	89-04-052
162-08-286	RE-AD	89-23-020	173-50-010	NEW	89-10-001
162-08-288	RE-AD-P	89-17-098	173-50-020	NEW-P	89-04-052
162-08-288	RE-AD	89-23-020	173-50-020	NEW	89-10-001
162-08-291	RE-AD-P	89-17-098	173-50-030	NEW-P	89-04-052
162-08-291	RE-AD	89-23-020	173-50-030	NEW	89-10-001
162-08-292	RE-AD-P	89-17-098	173-50-040	NEW-P	89-04-052
162-08-292	RE-AD	89-23-020	173-50-040	NEW	89-10-001
162-08-294	RE-AD-P	89-17-098	173-50-050	NEW-P	89-04-052
162-08-294	RE-AD	89-23-020	173-50-050	NEW	89-10-001
162-08-295	REP-P	89-17-098	173-50-060	NEW-P	89-04-052
162-08-295	REP	89-23-020	173-50-060	NEW	89-10-001
162-08-296	REP-P	89-17-098	173-50-070	NEW-P	89-04-052
162-08-296	REP	89-23-020	173-50-070	NEW	89-10-001
162-08-298	RE-AD-P	89-17-098	173-50-080	NEW-P	89-04-052
162-08-298	RE-AD	89-23-020	173-50-080	NEW	89-10-001
162-08-301	RE-AD-P	89-17-098	173-50-090	NEW-P	89-04-052

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
173-223-050	AMD-E	89-06-053	173-306-320	NEW-P	89-19-069
173-223-050	REP-P	89-07-088	173-306-330	NEW-P	89-19-069
173-223-050	REP	89-12-027	173-306-340	NEW-P	89-19-069
173-223-060	REP-P	89-07-088	173-306-345	NEW-P	89-19-069
173-223-060	REP	89-12-027	173-306-350	NEW-P	89-19-069
173-223-070	AMD	89-05-026	173-306-400	NEW-P	89-19-069
173-223-070	AMD-E	89-06-053	173-306-405	NEW-P	89-19-069
173-223-070	REP-P	89-07-088	173-306-410	NEW-P	89-19-069
173-223-070	REP	89-12-027	173-306-440	NEW-P	89-19-069
173-223-080	REP-P	89-07-088	173-306-450	NEW-P	89-19-069
173-223-080	REP	89-12-027	173-306-470	NEW-P	89-19-069
173-223-090	AMD	89-05-026	173-306-480	NEW-P	89-19-069
173-223-090	AMD-E	89-06-053	173-306-490	NEW-P	89-19-069
173-223-090	REP-P	89-07-088	173-306-495	NEW-P	89-19-069
173-223-090	REP	89-12-027	173-306-500	NEW-P	89-19-069
173-223-100	REP-P	89-07-088	173-306-900	NEW-P	89-19-069
173-223-100	REP	89-12-027	173-306-9901	NEW-P	89-19-069
173-223-110	REP-P	89-07-088	173-313-010	NEW-E	89-06-060
173-223-110	REP	89-12-027	173-313-010	NEW-P	89-11-086
173-224	NEW-C	89-12-016	173-313-010	NEW-E	89-12-021
173-224-015	NEW-P	89-07-088	173-313-010	NEW	89-17-073
173-224-015	NEW	89-12-027	173-313-020	NEW-E	89-06-060
173-224-020	NEW-P	89-07-088	173-313-020	NEW-P	89-11-086
173-224-020	NEW	89-12-027	173-313-020	NEW-E	89-12-021
173-224-030	NEW-P	89-07-088	173-313-020	NEW	89-17-073
173-224-030	NEW	89-12-027	173-313-030	NEW-E	89-06-060
173-224-040	NEW-P	89-07-088	173-313-030	NEW-P	89-11-086
173-224-040	NEW	89-12-027	173-313-030	NEW-E	89-12-021
173-224-050	NEW-P	89-07-088	173-313-030	NEW	89-17-073
173-224-050	NEW	89-12-027	173-313-040	NEW-E	89-06-060
173-224-060	NEW-P	89-07-088	173-313-040	NEW-P	89-11-086
173-224-060	NEW	89-12-027	173-313-040	NEW-E	89-12-021
173-224-070	NEW-P	89-07-088	173-313-040	NEW	89-17-073
173-224-070	NEW	89-12-027	173-313-050	NEW-E	89-06-060
173-224-070	NEW-P	89-07-088	173-313-050	NEW-P	89-11-086
173-224-080	NEW-P	89-07-088	173-313-050	NEW-P	89-11-086
173-224-080	NEW	89-12-027	173-313-050	NEW-E	89-12-021
173-224-090	NEW-P	89-07-088	173-313-050	NEW	89-17-073
173-224-090	NEW	89-12-027	173-314-010	NEW	89-03-047
173-224-100	NEW-P	89-07-088	173-314-100	NEW	89-03-047
173-224-100	NEW	89-12-027	173-314-200	NEW	89-03-047
173-224-110	NEW-P	89-07-088	173-314-210	NEW	89-03-047
173-224-110	NEW	89-12-027	173-314-220	NEW	89-03-047
173-224-120	NEW-P	89-07-088	173-314-300	NEW	89-03-047
173-224-120	NEW	89-12-027	173-314-310	NEW	89-03-047
173-303-040	AMD	89-02-059	173-314-320	NEW	89-03-047
173-303-045	AMD	89-02-059	173-314-330	NEW	89-03-047
173-303-070	AMD	89-02-059	173-314-340	NEW	89-03-047
173-303-071	AMD	89-02-059	173-315-010	NEW-E	89-06-061
173-303-080	AMD	89-02-059	173-315-010	NEW-P	89-11-087
173-303-110	AMD	89-02-059	173-315-010	NEW-E	89-12-020
173-303-161	AMD	89-02-059	173-315-010	NEW	89-17-072
173-303-200	AMD	89-02-059	173-315-020	NEW-E	89-06-061
173-303-202	NEW	89-02-059	173-315-020	NEW-P	89-11-087
173-303-400	AMD	89-02-059	173-315-020	NEW-E	89-12-020
173-303-505	AMD	89-02-059	173-315-020	NEW	89-17-072
173-303-515	AMD	89-02-059	173-315-030	NEW-E	89-06-061
173-303-550	AMD	89-02-059	173-315-030	NEW-P	89-11-087
173-303-610	AMD	89-02-059	173-315-030	NEW-E	89-12-020
173-303-620	AMD	89-02-059	173-315-030	NEW	89-17-072
173-303-640	AMD	89-02-059	173-315-040	NEW-E	89-06-061
173-303-645	AMD	89-02-059	173-315-040	NEW-P	89-11-087
173-303-805	AMD	89-02-059	173-315-040	NEW-E	89-12-020
173-303-806	AMD	89-02-059	173-315-040	NEW	89-17-072
173-303-830	AMD	89-02-059	173-315-050	NEW-E	89-06-061
173-303-902	NEW-P	89-15-047	173-315-050	NEW-P	89-11-087
173-303-902	NEW-E	89-19-030	173-315-050	NEW-E	89-12-020
173-303-902	NEW	89-21-071	173-315-050	NEW	89-17-072
173-303-9903	AMD	89-02-059	173-315-060	NEW-E	89-06-061
173-303-9904	AMD	89-02-059	173-315-060	NEW-P	89-11-087
173-303-9905	AMD	89-02-059	173-315-060	NEW-E	89-12-020
173-306-010	NEW-P	89-19-069	173-315-060	NEW	89-17-072
173-306-050	NEW-P	89-19-069	173-315-070	NEW-E	89-06-061
173-306-100	NEW-P	89-19-069	173-315-070	NEW-P	89-11-087
173-306-150	NEW-P	89-19-069	173-315-070	NEW-E	89-12-020
173-306-200	NEW-P	89-19-069	173-315-070	NEW	89-17-072
173-306-300	NEW-P	89-19-069	173-315-080	NEW-E	89-06-061
173-306-310	NEW-P	89-19-069	173-315-090	NEW-E	89-06-061

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
173-340-540	NEW-P	89-20-059	173-405-040	AMD-P	89-23-128
173-340-550	NEW-P	89-20-059	173-405-041	REP-P	89-23-128
173-340-560	NEW-P	89-20-059	173-405-045	AMD-P	89-23-128
173-340-600	NEW-P	89-20-059	173-405-061	AMD-P	89-23-128
173-340-610	NEW-P	89-20-059	173-405-072	AMD-P	89-23-128
173-340-700	NEW-P	89-20-059	173-405-077	AMD-P	89-23-128
173-340-800	NEW-P	89-20-059	173-405-078	AMD	89-02-055
173-340-810	NEW-P	89-20-059	173-405-078	AMD-P	89-23-128
173-340-820	NEW-P	89-20-059	173-405-086	AMD-P	89-23-128
173-340-830	NEW-P	89-20-059	173-405-087	AMD-P	89-23-128
173-340-840	NEW-P	89-20-059	173-405-091	AMD-P	89-23-128
173-340-850	NEW-P	89-20-059	173-410-012	AMD-P	89-23-128
173-340-860	NEW-P	89-20-059	173-410-021	AMD-P	89-23-128
173-340-870	NEW-P	89-20-059	173-410-035	AMD-P	89-23-128
173-340-880	NEW-P	89-20-059	173-410-040	AMD-P	89-23-128
173-340-890	NEW-P	89-20-059	173-410-042	REP-P	89-23-128
173-342-010	NEW-P	89-20-060	173-410-045	AMD-P	89-23-128
173-342-020	NEW-P	89-20-060	173-410-062	AMD-P	89-23-128
173-342-030	NEW-P	89-20-060	173-410-067	AMD-P	89-23-128
173-342-040	NEW-P	89-20-060	173-410-071	AMD	89-02-055
173-342-050	NEW-P	89-20-060	173-410-071	AMD-P	89-23-128
173-400-010	AMD-P	89-23-128	173-410-086	AMD-P	89-23-128
173-400-020	AMD-P	89-23-128	173-410-087	AMD-P	89-23-128
173-400-030	AMD-P	89-23-128	173-410-100	AMD-P	89-23-128
173-400-040	AMD-P	89-23-128	173-415-010	AMD-P	89-23-128
173-400-050	AMD-P	89-23-128	173-415-020	AMD-P	89-23-128
173-400-060	AMD-P	89-23-128	173-415-030	AMD-P	89-23-128
173-400-070	AMD-P	89-23-128	173-415-040	AMD-P	89-23-128
173-400-075	AMD-P	89-23-128	173-415-041	REP-P	89-23-128
173-400-100	AMD-P	89-23-128	173-415-045	AMD-P	89-23-128
173-400-105	AMD-P	89-23-128	173-415-050	AMD-P	89-23-128
173-400-110	AMD-P	89-23-128	173-415-051	AMD-P	89-23-128
173-400-115	AMD-P	89-23-128	173-415-060	AMD-P	89-23-128
173-400-120	AMD	89-02-055	173-415-070	AMD-P	89-23-128
173-400-120	AMD-P	89-23-128	173-415-080	AMD	89-02-055
173-400-131	NEW-P	89-23-128	173-415-080	AMD-P	89-23-128
173-400-136	NEW-P	89-23-128	173-422	AMD-C	89-24-060
173-400-141	NEW-P	89-23-128	173-422-020	AMD-P	89-21-075
173-400-151	NEW-P	89-23-128	173-422-035	NEW-P	89-21-075
173-400-161	NEW-P	89-23-128	173-422-040	AMD-P	89-21-075
173-400-171	NEW-P	89-23-128	173-422-060	AMD-P	89-21-075
173-400-180	NEW-P	89-23-128	173-422-070	AMD-P	89-21-075
173-400-190	NEW-P	89-23-128	173-422-090	AMD-P	89-21-075
173-400-200	NEW-P	89-23-128	173-422-100	AMD-P	89-21-075
173-400-205	NEW-P	89-23-128	173-422-130	AMD-P	89-21-075
173-400-210	NEW-P	89-23-128	173-422-140	AMD-P	89-21-075
173-400-220	NEW-P	89-23-128	173-422-145	AMD-P	89-21-075
173-400-230	NEW-P	89-23-128	173-422-160	AMD-P	89-21-075
173-400-240	NEW-P	89-23-128	173-422-170	AMD-P	89-21-075
173-400-250	NEW-P	89-23-128	173-422-190	NEW-P	89-21-075
173-403-010	REP-P	89-23-128	173-422-195	NEW-P	89-21-075
173-403-020	REP-P	89-23-128	173-425-030	AMD	89-02-055
173-403-030	AMD	89-02-055	173-425-035	REP	89-02-055
173-403-030	REP-P	89-23-128	173-425-036	NEW	89-02-055
173-403-050	AMD	89-02-055	173-425-045	AMD	89-02-055
173-403-050	REP-P	89-23-128	173-425-065	AMD	89-02-055
173-403-060	REP-P	89-23-128	173-425-075	AMD	89-02-055
173-403-070	REP-P	89-23-128	173-425-085	AMD	89-02-055
173-403-075	REP-P	89-23-128	173-425-095	AMD	89-02-055
173-403-080	AMD	89-02-055	173-425-130	AMD	89-02-055
173-403-080	REP-P	89-23-128	173-433-030	AMD	89-02-054
173-403-090	REP-P	89-23-128	173-433-100	AMD	89-02-054
173-403-100	REP-P	89-23-128	173-433-120	AMD	89-02-054
173-403-110	REP-P	89-23-128	173-433-130	NEW	89-02-054
173-403-120	REP-P	89-23-128	173-433-170	NEW	89-02-054
173-403-130	REP-P	89-23-128	173-434-050	AMD	89-02-055
173-403-141	REP-P	89-23-128	173-434-200	AMD	89-02-055
173-403-145	REP-P	89-23-128	173-435-010	AMD	89-02-055
173-403-150	REP-P	89-23-128	173-435-015	NEW	89-02-055
173-403-160	REP-P	89-23-128	173-435-020	AMD	89-02-055
173-403-170	REP-P	89-23-128	173-435-030	AMD	89-02-055
173-403-180	REP-P	89-23-128	173-435-040	AMD	89-02-055
173-403-190	REP-P	89-23-128	173-435-050	AMD	89-02-055
173-405-012	AMD-P	89-23-128	173-435-060	AMD	89-02-055
173-405-021	AMD-P	89-23-128	173-435-070	AMD	89-02-055
173-405-033	AMD-P	89-23-128	173-470-030	AMD	89-02-055
173-405-035	AMD-P	89-23-128	173-470-100	AMD	89-02-055

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
174-128-062	REP-P	89-22-031	174-168-020	NEW-P	89-22-031
174-128-064	REP-P	89-22-031	174-276-010	NEW-P	89-22-031
174-128-066	REP-P	89-22-031	174-276-020	NEW-P	89-22-031
174-128-070	REP-P	89-22-031	174-276-030	NEW-P	89-22-031
174-128-080	REP-P	89-22-031	174-276-040	NEW-P	89-22-031
174-128-090	REP-P	89-22-031	174-276-050	NEW-P	89-22-031
174-128-990	REP-P	89-22-031	174-276-060	NEW-P	89-22-031
174-130-010	NEW-P	89-22-031	174-276-070	NEW-P	89-22-031
174-130-020	NEW-P	89-22-031	174-276-080	NEW-P	89-22-031
174-131-010	NEW-P	89-22-031	174-276-090	NEW-P	89-22-031
174-132	AMD-P	89-22-031	174-276-100	NEW-P	89-22-031
174-132-010	AMD-P	89-22-031	174-276-110	NEW-P	89-22-031
174-132-020	REP-P	89-22-031	174-276-120	NEW-P	89-22-031
174-132-030	REP-P	89-22-031	174-280-010	NEW-P	89-22-031
174-132-040	REP-P	89-22-031	174-280-015	NEW-P	89-22-031
174-132-050	REP-P	89-22-031	174-280-020	NEW-P	89-22-031
174-132-060	REP-P	89-22-031	174-280-025	NEW-P	89-22-031
174-132-070	REP-P	89-22-031	174-280-030	NEW-P	89-22-031
174-132-080	REP-P	89-22-031	174-280-035	NEW-P	89-22-031
174-132-090	REP-P	89-22-031	174-280-040	NEW-P	89-22-031
174-132-100	REP-P	89-22-031	174-280-045	NEW-P	89-22-031
174-132-110	REP-P	89-22-031	174-400-010	NEW-P	89-23-053
174-132-120	REP-P	89-22-031	180-08-003	RE-AD-E	89-16-076
174-133-010	NEW-P	89-22-031	180-08-003	RE-AD-P	89-17-107
174-133-020	NEW-P	89-22-031	180-08-003	AMD	89-22-010
174-135-010	NEW-P	89-22-031	180-08-005	RE-AD-E	89-16-076
174-136-010	REP-P	89-22-031	180-08-005	RE-AD-P	89-17-107
174-136-011	REP-P	89-22-031	180-08-005	AMD	89-22-010
174-136-012	REP-P	89-22-031	180-16-220	AMD-P	89-21-078
174-136-013	REP-P	89-22-031	180-24-205	NEW-E	89-16-039
174-136-014	REP-P	89-22-031	180-24-205	NEW-P	89-17-100
174-136-015	REP-P	89-22-031	180-24-205	NEW	89-22-005
174-136-016	REP-P	89-22-031	180-25-060	NEW-P	89-21-079
174-136-017	REP-P	89-22-031	180-25-065	NEW-P	89-21-079
174-136-018	REP-P	89-22-031	180-25-070	NEW-P	89-21-079
174-136-019	REP-P	89-22-031	180-25-075	NEW-P	89-21-079
174-136-02001	REP-P	89-22-031	180-25-080	NEW-P	89-21-079
174-136-021	REP-P	89-22-031	180-25-085	NEW-P	89-21-079
174-136-022	REP-P	89-22-031	180-25-090	NEW-P	89-21-079
174-136-040	REP-P	89-22-031	180-25-300	NEW-P	89-05-066
174-136-042	REP-P	89-22-031	180-25-300	NEW-E	89-06-018
174-136-060	REP-P	89-22-031	180-25-300	NEW	89-08-086
174-136-080	REP-P	89-22-031	180-25-300	AMD-E	89-13-011
174-136-090	REP-P	89-22-031	180-25-300	AMD-E	89-16-040
174-136-100	REP-P	89-22-031	180-25-300	AMD-P	89-17-102
174-136-110	REP-P	89-22-031	180-25-300	AMD	89-22-006
174-136-120	REP-P	89-22-031	180-26-055	AMD-P	89-05-065
174-136-130	REP-P	89-22-031	180-26-055	AMD-E	89-06-017
174-136-140	REP-P	89-22-031	180-26-055	AMD	89-08-085
174-136-160	REP-P	89-22-031	180-27-015	AMD-P	89-21-080
174-136-170	REP-P	89-22-031	180-27-017	NEW-P	89-21-080
174-136-210	REP-P	89-22-031	180-27-019	NEW-P	89-21-080
174-136-220	REP-P	89-22-031	180-27-023	NEW-P	89-21-080
174-136-230	REP-P	89-22-031	180-27-057	AMD-E	89-13-015
174-136-240	REP-P	89-22-031	180-27-057	AMD-E	89-16-041
174-136-250	REP-P	89-22-031	180-27-057	AMD-P	89-17-101
174-136-300	REP-P	89-22-031	180-27-057	AMD	89-22-007
174-136-310	REP-P	89-22-031	180-27-115	AMD-P	89-21-080
174-136-320	REP-P	89-22-031	180-27-400	NEW-P	89-21-080
174-136-330	REP-P	89-22-031	180-27-405	NEW-P	89-21-080
174-157-600	REP-P	89-22-031	180-27-410	NEW-P	89-21-080
174-157-610	REP-P	89-22-031	180-27-415	NEW-P	89-21-080
174-157-620	REP-P	89-22-031	180-27-420	NEW-P	89-21-080
174-157-990	REP-P	89-22-031	180-29-108	AMD-E	89-16-042
174-160-010	REP-P	89-22-031	180-29-108	AMD-P	89-17-104
174-160-020	REP-P	89-22-031	180-29-108	AMD	89-22-008
174-160-030	REP-P	89-22-031	180-29-300	NEW-P	89-05-067
174-160-040	REP-P	89-22-031	180-29-300	NEW-E	89-06-019
174-162-010	REP-P	89-22-031	180-29-300	NEW	89-08-087
174-162-015	REP-P	89-22-031	180-29-300	AMD-E	89-13-014
174-162-020	REP-P	89-22-031	180-29-300	AMD-E	89-16-043
174-162-025	REP-P	89-22-031	180-29-300	AMD-P	89-17-103
174-162-030	REP-P	89-22-031	180-29-300	AMD	89-22-009
174-162-035	REP-P	89-22-031	180-51-025	AMD-P	89-05-060
174-162-040	REP-P	89-22-031	180-51-025	AMD-C	89-08-080
174-162-045	REP-P	89-22-031	180-51-025	AMD	89-12-061
174-168-010	NEW-P	89-22-031	180-53-025	AMD-P	89-21-081

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
180-75-033	RE-AD-P 89-17-107	180-75-083	RE-AD-E 89-16-076	180-86-150	NEW-P 89-21-084
180-75-033	REP-P 89-21-082	180-75-083	RE-AD-P 89-17-107	180-86-155	NEW-P 89-21-084
180-75-033	RE-AD 89-22-010	180-75-083	RE-AD 89-22-010	180-86-160	NEW-P 89-21-084
180-75-034	RE-AD-E 89-16-076	180-75-084	RE-AD-E 89-16-076	180-86-165	NEW-P 89-21-084
180-75-034	RE-AD-P 89-17-107	180-75-084	RE-AD-P 89-17-107	180-86-170	NEW-P 89-21-084
180-75-034	REP-P 89-21-082	180-75-084	REP-P 89-21-082	180-86-175	NEW-P 89-21-084
180-75-034	RE-AD 89-22-010	180-75-084	RE-AD 89-22-010	180-86-180	NEW-P 89-21-084
180-75-035	RE-AD-E 89-16-076	180-75-085	AMD-P 89-08-082	180-86-185	NEW-P 89-21-084
180-75-035	RE-AD-P 89-17-107	180-75-085	AMD-E 89-08-084	180-87-001	NEW-P 89-21-085
180-75-035	REP-P 89-21-082	180-75-085	AMD 89-12-025	180-87-003	NEW-P 89-21-085
180-75-035	RE-AD 89-22-010	180-75-085	RE-AD-E 89-16-076	180-87-005	NEW-P 89-21-085
180-75-037	RE-AD-E 89-16-076	180-75-085	RE-AD-P 89-17-107	180-87-010	NEW-P 89-21-085
180-75-037	RE-AD-P 89-17-107	180-75-085	RE-AD 89-22-010	180-87-015	NEW-P 89-21-085
180-75-037	REP-P 89-21-082	180-75-086	RE-AD-E 89-16-076	180-87-020	NEW-P 89-21-085
180-75-037	RE-AD 89-22-010	180-75-086	RE-AD-P 89-17-107	180-87-025	NEW-P 89-21-085
180-75-038	RE-AD-E 89-16-076	180-75-086	REP-P 89-21-082	180-87-030	NEW-P 89-21-085
180-75-038	RE-AD-P 89-17-107	180-75-086	RE-AD 89-22-010	180-87-035	NEW-P 89-21-085
180-75-038	REP-P 89-21-082	180-75-087	RE-AD-E 89-16-076	180-87-040	NEW-P 89-21-085
180-75-038	RE-AD 89-22-010	180-75-087	RE-AD-P 89-17-107	180-87-045	NEW-P 89-21-085
180-75-039	RE-AD-E 89-16-076	180-75-087	RE-AD 89-22-010	180-87-050	NEW-P 89-21-085
180-75-039	RE-AD-P 89-17-107	180-75-088	RE-AD-E 89-16-076	180-87-055	NEW-P 89-21-085
180-75-039	REP-P 89-21-082	180-75-088	RE-AD-P 89-17-107	180-87-060	NEW-P 89-21-085
180-75-039	RE-AD 89-22-010	180-75-088	RE-AD 89-22-010	180-87-065	NEW-P 89-21-085
180-75-040	RE-AD-E 89-16-076	180-75-090	RE-AD-E 89-16-076	180-87-070	NEW-P 89-21-085
180-75-040	RE-AD-P 89-17-107	180-75-090	RE-AD-P 89-17-107	180-87-080	NEW-P 89-21-085
180-75-040	REP-P 89-21-082	180-75-090	RE-AD 89-22-010	180-87-085	NEW-P 89-21-085
180-75-040	RE-AD 89-22-010	180-75-091	RE-AD-E 89-16-076	180-87-090	NEW-P 89-21-085
180-75-042	RE-AD-E 89-16-076	180-75-091	RE-AD-P 89-17-107	180-87-095	NEW-P 89-21-085
180-75-042	RE-AD-P 89-17-107	180-75-091	RE-AD 89-22-010	180-115-010	AMD-E 89-16-044
180-75-042	REP-P 89-21-082	180-75-092	RE-AD-E 89-16-076	180-115-010	AMD-P 89-17-105
180-75-042	AMD 89-22-010	180-75-092	RE-AD-P 89-17-107	180-115-010	AMD 89-22-012
180-75-043	RE-AD-E 89-16-076	180-75-092	RE-AD 89-22-010	180-115-020	AMD-E 89-16-044
180-75-043	RE-AD-P 89-17-107	180-75-100	RE-AD-E 89-16-076	180-115-020	AMD-P 89-17-105
180-75-043	REP-P 89-21-082	180-75-100	RE-AD-P 89-17-107	180-115-020	AMD 89-22-012
180-75-043	RE-AD 89-22-010	180-75-100	RE-AD 89-22-010	180-115-035	AMD-E 89-16-044
180-75-044	RE-AD-E 89-16-076	180-75-199	RE-AD-E 89-16-076	180-115-035	AMD-P 89-17-105
180-75-044	RE-AD-P 89-17-107	180-75-199	RE-AD-P 89-17-107	180-115-035	AMD 89-22-012
180-75-044	REP-P 89-21-082	180-75-199	REP-P 89-21-082	180-115-045	AMD-E 89-16-044
180-75-044	RE-AD 89-22-010	180-75-199	RE-AD 89-22-010	180-115-045	AMD-P 89-17-105
180-75-045	RE-AD-E 89-16-076	180-78-191	AMD-P 89-21-083	180-115-045	AMD 89-22-012
180-75-045	RE-AD-P 89-17-107	180-78-192	REP-P 89-21-083	180-115-060	AMD-E 89-16-044
180-75-045	AMD-P 89-21-082	180-78-193	REP-P 89-21-083	180-115-060	AMD-P 89-17-105
180-75-045	RE-AD 89-22-010	180-78-194	REP-P 89-21-083	180-115-060	AMD 89-22-012
180-75-047	RE-AD-E 89-16-076	180-78-195	REP-P 89-21-083	180-115-070	REP-E 89-16-044
180-75-047	RE-AD-P 89-17-107	180-78-197	REP-P 89-21-083	180-115-070	REP-P 89-17-105
180-75-047	RE-AD 89-22-010	180-78-198	REP-P 89-21-083	180-115-070	REP 89-22-012
180-75-048	RE-AD-E 89-16-076	180-78-199	REP-P 89-21-083	180-115-081	NEW-E 89-16-044
180-75-048	RE-AD-P 89-17-107	180-79-063	AMD-P 89-17-106	180-115-081	NEW-P 89-17-105
180-75-048	RE-AD 89-22-010	180-79-063	AMD 89-22-011	180-115-081	NEW 89-22-012
180-75-050	RE-AD-E 89-16-076	180-79-230	AMD-P 89-08-081	180-115-085	AMD-E 89-16-044
180-75-050	RE-AD-P 89-17-107	180-79-230	AMD-E 89-08-083	180-115-085	AMD-P 89-17-105
180-75-050	RE-AD 89-22-010	180-79-230	AMD 89-12-026	180-115-085	AMD 89-22-012
180-75-055	RE-AD-E 89-16-076	180-86-003	NEW-P 89-21-084	180-115-090	AMD-E 89-16-044
180-75-055	RE-AD-P 89-17-107	180-86-005	NEW-P 89-21-084	180-115-090	AMD-P 89-17-105
180-75-055	RE-AD 89-22-010	180-86-010	NEW-P 89-21-084	180-115-090	AMD 89-22-012
180-75-060	RE-AD-E 89-16-076	180-86-015	NEW-P 89-21-084	180-115-105	AMD-E 89-16-044
180-75-060	RE-AD-P 89-17-107	180-86-020	NEW-P 89-21-084	180-115-105	AMD-P 89-17-105
180-75-060	RE-AD 89-22-010	180-86-030	NEW-P 89-21-084	180-115-105	AMD 89-22-012
180-75-061	RE-AD-E 89-16-076	180-86-035	NEW-P 89-21-084	182-08-165	NEW-P 89-02-070
180-75-061	RE-AD-P 89-17-107	180-86-040	NEW-P 89-21-084	182-08-165	NEW 89-05-013
180-75-061	RE-AD 89-22-010	180-86-050	NEW-P 89-21-084	182-08-190	AMD-P 89-08-005
180-75-065	RE-AD-E 89-16-076	180-86-055	NEW-P 89-21-084	182-08-190	AMD-W 89-09-053
180-75-065	RE-AD-P 89-17-107	180-86-065	NEW-P 89-21-084	182-12-115	AMD-P 89-09-054
180-75-065	RE-AD 89-22-010	180-86-070	NEW-P 89-21-084	182-12-115	AMD 89-12-045
180-75-070	RE-AD-E 89-16-076	180-86-075	NEW-P 89-21-084	182-12-127	AMD-P 89-08-005
180-75-070	RE-AD-P 89-17-107	180-86-085	NEW-P 89-21-084	182-12-127	AMD-W 89-09-053
180-75-070	RE-AD 89-22-010	180-86-090	NEW-P 89-21-084	182-12-127	AMD-P 89-09-054
180-75-080	RE-AD-E 89-16-076	180-86-095	NEW-P 89-21-084	182-12-127	AMD 89-12-045
180-75-080	RE-AD-P 89-17-107	180-86-100	NEW-P 89-21-084	182-12-140	REP-P 89-02-070
180-75-080	RE-AD 89-22-010	180-86-105	NEW-P 89-21-084	182-12-140	REP 89-05-013
180-75-081	RE-AD-E 89-16-076	180-86-110	NEW-P 89-21-084	182-12-210	AMD-P 89-08-005
180-75-081	RE-AD-P 89-17-107	180-86-115	NEW-P 89-21-084	182-12-210	AMD-W 89-09-053
180-75-081	AMD-P 89-21-082	180-86-120	NEW-P 89-21-084	182-12-210	AMD-P 89-09-054
180-75-081	RE-AD 89-22-010	180-86-130	NEW-P 89-21-084	182-12-210	AMD 89-12-045
180-75-082	RE-AD-E 89-16-076	180-86-135	NEW-P 89-21-084	192-04-010	NEW-P 89-19-079
180-75-082	RE-AD-P 89-17-107	180-86-140	NEW-P 89-21-084	192-04-010	NEW 89-24-030
180-75-082	RE-AD 89-22-010	180-86-145	NEW-P 89-21-084	192-04-020	NEW-P 89-19-079

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #	
192-04-020	NEW	89-24-030	192-09-125	REP-P	89-19-079	
192-04-030	NEW-P	89-19-079	192-09-125	REP	89-24-030	
192-04-030	NEW	89-24-030	192-09-130	REP-P	89-19-079	
192-04-040	NEW-P	89-17-086	192-09-130	REP	89-24-030	
192-04-040	NEW	89-20-064	192-09-135	REP-P	89-19-079	
192-04-050	NEW-P	89-19-079	192-09-135	REP	89-24-030	
192-04-050	NEW	89-24-030	192-09-140	REP-P	89-19-079	
192-04-060	NEW-P	89-19-079	192-09-140	REP	89-24-030	
192-04-060	NEW	89-24-030	192-09-145	REP-P	89-19-079	
192-04-070	NEW-P	89-19-079	192-09-145	REP	89-24-030	
192-04-070	NEW	89-24-030	192-09-150	REP-P	89-19-079	
192-04-080	NEW-P	89-19-079	192-09-150	REP	89-24-030	
192-04-080	NEW	89-24-030	192-09-155	REP-P	89-19-079	
192-04-090	NEW-P	89-19-079	192-09-155	REP	89-24-030	
192-04-090	NEW	89-24-030	192-09-160	REP-P	89-19-079	
192-04-100	NEW-P	89-19-079	192-09-160	REP	89-24-030	
192-04-100	NEW	89-24-030	192-09-165	REP-P	89-19-079	
192-04-110	NEW-P	89-19-079	192-09-165	REP	89-24-030	
192-04-110	NEW	89-24-030	192-09-170	REP-P	89-19-079	
192-04-120	NEW-P	89-19-079	192-09-170	REP	89-24-030	
192-04-120	NEW	89-24-030	192-09-200	REP-P	89-19-079	
192-04-130	NEW-P	89-19-079	192-09-200	REP	89-24-030	
192-04-130	NEW	89-24-030	192-09-205	REP-P	89-19-079	
192-04-140	NEW-P	89-19-079	192-09-205	REP	89-24-030	
192-04-140	NEW	89-24-030	192-09-210	REP-P	89-19-079	
192-04-150	NEW-P	89-19-079	192-09-210	REP	89-24-030	
192-04-150	NEW	89-24-030	192-09-215	REP-P	89-19-079	
192-04-160	NEW-P	89-19-079	192-09-215	REP	89-24-030	
192-04-160	NEW	89-24-030	192-09-220	REP-P	89-19-079	
192-04-170	NEW-P	89-19-079	192-09-220	REP	89-24-030	
192-04-170	NEW	89-24-030	192-09-225	REP-P	89-19-079	
192-04-180	NEW-P	89-19-079	192-09-225	REP	89-24-030	
192-04-180	NEW	89-24-030	192-09-230	REP-P	89-19-079	
192-04-190	NEW-P	89-19-079	192-09-230	REP	89-24-030	
192-04-190	NEW	89-24-030	192-09-235	REP-P	89-19-079	
192-04-200	NEW-P	89-19-079	192-09-235	REP	89-24-030	
192-04-200	NEW	89-24-030	192-09-240	REP-P	89-19-079	
192-04-210	NEW-P	89-19-079	192-09-240	REP	89-24-030	
192-04-210	NEW	89-24-030	192-09-300	REP-P	89-19-079	
192-09-010	REP-P	89-19-079	192-09-300	REP	89-24-030	
192-09-010	REP	89-24-030	192-09-305	REP-P	89-19-079	
192-09-020	REP-P	89-19-079	192-09-305	REP	89-24-030	
192-09-020	REP	89-24-030	192-09-310	REP-P	89-19-079	
192-09-030	AMD	89-03-070	192-09-310	REP	89-24-030	
192-09-030	REP-P	89-19-079	192-09-315	AMD	89-03-070	
192-09-030	REP	89-24-030	192-09-315	REP-P	89-19-079	
192-09-035	REP-P	89-17-086	192-09-315	REP	89-24-030	
192-09-035	REP-P	89-19-079	192-09-400	REP-P	89-19-079	
192-09-035	REP	89-20-064	192-09-400	REP	89-24-030	
192-09-035	REP	89-24-030	192-09-405	REP-P	89-19-079	
192-09-040	REP-P	89-17-086	192-09-405	REP	89-24-030	
192-09-040	REP-P	89-19-079	192-09-410	REP-P	89-19-079	
192-09-040	REP	89-20-064	192-09-410	REP	89-24-030	
192-09-040	REP	89-24-030	192-09-415	REP-P	89-19-079	
192-09-050	REP-P	89-19-079	192-09-415	REP	89-24-030	
192-09-050	REP	89-24-030	192-09-420	REP-P	89-19-079	
192-09-060	REP-P	89-19-079	192-09-420	REP	89-24-030	
192-09-060	REP	89-24-030	192-09-425	REP-P	89-19-079	
192-09-062	REP-P	89-19-079	192-09-425	REP	89-24-030	
192-09-062	REP	89-24-030	192-09-430	REP-P	89-19-079	
192-09-063	AMD	89-03-070	192-09-430	REP	89-24-030	
192-09-063	REP-P	89-19-079	192-09-435	REP-P	89-19-079	
192-09-063	REP	89-24-030	192-09-435	REP	89-24-030	
192-09-065	REP-P	89-19-079	192-09-440	REP-P	89-19-079	
192-09-065	REP	89-24-030	192-09-440	REP	89-24-030	
192-09-070	REP-P	89-19-079	192-09-445	REP-P	89-19-079	
192-09-070	REP	89-24-030	192-09-445	REP	89-24-030	
192-09-100	REP-P	89-19-079	192-09-450	REP-P	89-19-079	
192-09-100	REP	89-24-030	192-09-450	REP	89-24-030	
192-09-105	REP-P	89-19-079	192-09-455	REP-P	89-19-079	
192-09-105	REP	89-24-030	192-09-455	REP	89-24-030	
192-09-110	REP-P	89-19-079	192-09-460	REP-P	89-19-079	
192-09-110	REP	89-24-030	192-09-460	REP	89-24-030	
192-09-115	REP-P	89-19-079	192-12-025	AMD	89-03-068	
192-09-115	REP	89-24-030	192-12-180	AMD	89-03-069	
192-09-120	REP-P	89-19-079	192-12-182	AMD	89-03-069	
192-09-120	REP	89-24-030	192-12-300	NEW-P	89-17-086	
				192-12-300	NEW	89-20-064
				192-12-305	NEW-P	89-17-086
				192-12-305	NEW	89-20-064
				192-12-310	NEW-P	89-17-086
				192-12-310	NEW	89-20-064
				192-12-320	NEW-P	89-17-086
				192-12-320	NEW	89-20-064
				192-16-300	NEW-P	89-17-085
				192-16-305	NEW-P	89-17-085
				192-16-310	NEW-P	89-17-085
				192-28-135	NEW-P	89-12-084
				192-28-135	NEW	89-20-065
				192-40-020	AMD-P	89-19-079
				192-40-020	AMD	89-24-030
				192-40-040	AMD-P	89-19-079
				192-40-040	AMD	89-24-030
				192-40-050	AMD-P	89-19-079
				192-40-050	AMD	89-24-030
				192-40-050	AMD-P	89-19-079
				192-40-050	AMD	89-24-030
				192-40-050	AMD-P	89-19-079
				192-40-050	AMD	89-24-030
				192-40-055	NEW-P	89-17-121
				192-40-056	NEW-P	89-22-064
				192-40-057	NEW-P	89-22-064
				192-42-030	AMD-P	89-17-121
				192-42-030	AMD-C	89-22-064
				192-42-035	NEW-P	89-17-121
				192-42-040	REP-P	89-17-121
				192-42-040	REP-C	89-22-064
				192-42-040	REP-P	89-17-121
				192-42-040	REP-C	89-22-064
				192-42-050	AMD-P	89-17-121
				192-42-050	REP-C	89-22-064
				192-42-055	NEW-P	89-17-121
				192-42-056	NEW-P	89-22-064
				192-42-057	NEW-P	89-22-064
				192-42-058	NEW-P	89-17-121
				192-42-058	NEW-C	89-22-064
				192-42-070	REP-P	89-17-121
				192-42-070	REP-C	89-22-064
				192-42-071	NEW-P	89-17-121
				192-42-080	REP-P	89-17-121
				192-42-080	REP-C	89-22-064
				192-42-081	NEW-P	89-17-121
				192-42-081	NEW-C	89-22-064
				192-42-081	NEW-P	89-11-083
				194-18-010	NEW	89-15-013
				194-18-020	NEW-P	89-11-083
				194-18-020	NEW	89-15-013
				194-18-030	NEW-P	89-11-083
				194-18-030	NEW	89-15-013
				194-18-030	NEW	89-11-083
				196-16-007	AMD	89-05-021
				196-16-020	AMD	89-05-021
				196-16-031	AMD	89-05-021
				196-24-080	AMD	89-05-021
				196-24-085	AMD	89-05-021
				196-24-090	AMD-P	89-24-057
				196-24-092	NEW-P	89-24-057
				196-26-020	AMD-E	89-20-044
				196-26-020	AMD-P	89-24-015
				196-27-020	AMD-P	89-24-057
				204-29-010	NEW-E	89-10-007
				204-29-010	NEW	89-10-016
				204-65-010	AMD-E	89-09-023

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
204-65-010	AMD-P	89-09-024	204-91-180	REP-P	89-10-029
204-65-010	AMD	89-12-018	204-91-180	REP	89-14-015
204-65-020	AMD-E	89-09-023	204-91-190	REP-P	89-10-029
204-65-020	AMD-P	89-09-024	204-91-190	REP	89-14-015
204-65-020	AMD	89-12-018	204-91-200	REP-P	89-10-029
204-65-030	AMD-E	89-09-023	204-91-200	REP	89-14-015
204-65-030	AMD-P	89-09-024	204-91A-010	NEW-P	89-10-029
204-65-030	AMD	89-12-018	204-91A-010	NEW	89-14-015
204-65-040	AMD-E	89-09-023	204-91A-020	NEW-P	89-10-029
204-65-040	AMD-P	89-09-024	204-91A-020	NEW	89-14-015
204-65-040	AMD	89-12-018	204-91A-030	NEW-P	89-10-029
204-65-050	AMD-E	89-09-023	204-91A-030	NEW	89-14-015
204-65-050	AMD-P	89-09-024	204-91A-030	AMD-P	89-18-080
204-65-050	AMD	89-12-018	204-91A-030	AMD	89-21-044
204-65-060	AMD-E	89-09-023	204-91A-040	NEW-P	89-10-029
204-65-060	AMD-P	89-09-024	204-91A-040	NEW	89-14-015
204-65-060	AMD	89-12-018	204-91A-050	NEW-P	89-10-029
204-76-99001	AMD-P	89-09-025	204-91A-050	NEW	89-14-015
204-76-99001	AMD	89-12-019	204-91A-060	NEW-P	89-10-029
204-76-99002	AMD-P	89-09-025	204-91A-060	NEW	89-14-015
204-76-99002	AMD	89-12-019	204-91A-060	AMD-P	89-18-080
204-82-010	REP-P	89-21-043	204-91A-060	AMD	89-21-044
204-82-010	REP	89-24-023	204-91A-070	NEW-P	89-10-029
204-82-020	REP-P	89-21-043	204-91A-070	NEW	89-14-015
204-82-020	REP	89-24-023	204-91A-070	AMD-P	89-18-080
204-82-030	REP-P	89-21-043	204-91A-070	AMD	89-21-044
204-82-030	REP	89-24-023	204-91A-080	NEW-P	89-10-029
204-82-040	REP-P	89-21-043	204-91A-080	NEW	89-14-015
204-82-040	REP	89-24-023	204-91A-090	NEW-P	89-10-029
204-82-050	REP-P	89-21-043	204-91A-090	NEW	89-14-015
204-82-050	REP	89-24-023	204-91A-100	NEW-P	89-10-029
204-82-060	REP-P	89-21-043	204-91A-100	NEW	89-14-015
204-82-060	REP	89-24-023	204-91A-110	NEW-P	89-10-029
204-82A-010	NEW-P	89-21-006	204-91A-110	NEW	89-14-015
204-82A-010	NEW	89-24-023	204-91A-120	NEW-P	89-10-029
204-82A-020	NEW-P	89-21-006	204-91A-120	NEW	89-14-015
204-82A-020	NEW	89-24-023	204-91A-120	AMD-P	89-18-080
204-82A-030	NEW-P	89-21-006	204-91A-120	AMD	89-21-044
204-82A-030	NEW	89-24-023	204-91A-130	NEW-P	89-10-029
204-82A-040	NEW-P	89-21-006	204-91A-130	NEW	89-14-015
204-82A-040	NEW	89-24-023	204-91A-140	NEW-P	89-10-029
204-82A-050	NEW-P	89-21-006	204-91A-140	NEW	89-14-015
204-82A-050	NEW	89-24-023	204-91A-140	AMD-P	89-18-080
204-82A-060	NEW-P	89-21-006	204-91A-140	AMD	89-21-044
204-82A-060	NEW	89-24-023	204-91A-150	NEW-P	89-10-029
204-91-010	REP-P	89-10-029	204-91A-150	NEW	89-14-015
204-91-010	REP	89-14-015	204-91A-160	NEW-P	89-10-029
204-91-020	REP-P	89-10-029	204-91A-160	NEW	89-14-015
204-91-020	REP	89-14-015	204-91A-170	NEW-P	89-10-029
204-91-030	REP-P	89-10-029	204-91A-170	NEW	89-14-015
204-91-030	REP	89-14-015	204-91A-180	NEW-P	89-10-029
204-91-040	REP-P	89-10-029	204-91A-180	NEW	89-14-015
204-91-040	REP	89-14-015	204-91A-180	AMD-P	89-18-080
204-91-050	REP-P	89-10-029	204-91A-180	AMD	89-21-044
204-91-050	REP	89-14-015	212-17-140	AMD-P	89-13-019
204-91-060	REP-P	89-10-029	212-17-140	AMD-E	89-13-020
204-91-060	REP	89-14-015	212-17-140	AMD	89-17-024
204-91-070	REP-P	89-10-029	212-17-195	AMD-P	89-13-019
204-91-070	REP	89-14-015	212-17-195	AMD-E	89-13-020
204-91-080	REP-P	89-10-029	212-17-195	AMD	89-17-024
204-91-080	REP	89-14-015	220-12-010	AMD-P	89-10-068
204-91-100	REP-P	89-10-029	220-12-010	AMD	89-14-010
204-91-100	REP	89-14-015	220-12-0100A	NEW-E	89-16-009
204-91-110	REP-P	89-10-029	220-16-410	NEW-P	89-12-006
204-91-110	REP	89-14-015	220-16-410	NEW	89-15-032
204-91-120	REP-P	89-10-029	220-16-410	AMD-P	89-23-114
204-91-120	REP	89-14-015	220-16-420	NEW-P	89-23-114
204-91-130	REP-P	89-10-029	220-16-430	NEW-P	89-24-100
204-91-130	REP	89-14-015	220-20-017	AMD-P	89-09-080
204-91-140	REP-P	89-10-029	220-20-017	AMD	89-13-004
204-91-140	REP	89-14-015	220-20-020	AMD-P	89-24-100
204-91-150	REP-P	89-10-029	220-20-055	AMD-P	89-06-033
204-91-150	REP	89-14-015	220-20-055	AMD	89-09-052
204-91-160	REP-P	89-10-029	220-22-020	AMD-P	89-23-114
204-91-160	REP	89-14-015	220-22-030	AMD-P	89-09-080
204-91-170	REP-P	89-10-029	220-22-030	AMD	89-13-004
204-91-170	REP	89-14-015	220-24-02000D	NEW-E	89-09-073

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
220-36-02100F	REP-E 89-22-026	220-47-513	REP-E 89-19-011	220-55-070	AMD-P 89-03-013
220-36-02100G	NEW-E 89-22-026	220-47-514	NEW-E 89-19-011	220-55-070	AMD 89-07-071
220-36-02100G	REP-E 89-22-056	220-47-514	REP-E 89-19-039	220-55-07000A	NEW-E 89-03-014
220-36-02100H	NEW-E 89-22-056	220-47-515	NEW-E 89-19-039	220-55-075	AMD-P 89-03-013
220-36-02100H	REP-E 89-22-110	220-47-515	REP-E 89-20-009	220-55-075	AMD 89-07-071
220-36-02100I	NEW-E 89-22-110	220-47-516	NEW-E 89-20-009	220-55-07500A	NEW-E 89-03-014
220-36-02100I	REP-E 89-23-012	220-47-516	REP-E 89-20-033	220-55-086	NEW-P 89-03-013
220-36-02100J	NEW-E 89-23-012	220-47-517	NEW-E 89-20-033	220-55-086	NEW 89-07-071
220-36-023	NEW-P 89-12-085	220-47-517	REP-E 89-21-014	220-55-086	AMD-P 89-23-114
220-36-023	NEW 89-16-056	220-47-518	NEW-E 89-21-014	220-55-08600A	NEW-E 89-03-014
220-40	AMD-C 89-16-055	220-47-518	REP-E 89-21-052	220-55-08600B	NEW-E 89-12-047
220-40-015	NEW-P 89-12-085	220-47-519	NEW-E 89-21-052	220-55-08600C	NEW-E 89-18-093
220-40-015	NEW 89-16-056	220-47-519	REP-E 89-22-001	220-55-090	AMD-P 89-03-013
220-40-020	AMD-P 89-12-085	220-47-520	NEW-E 89-22-001	220-55-090	AMD 89-07-071
220-40-020	AMD 89-16-056	220-47-520	REP-E 89-22-003	220-55-09000A	NEW-E 89-03-014
220-40-021	AMD-P 89-12-085	220-47-521	NEW-E 89-22-003	220-55-105	AMD-P 89-03-013
220-40-021	AMD 89-16-056	220-47-521	REP-E 89-22-043	220-55-105	AMD 89-07-071
220-40-02100P	NEW-E 89-14-049	220-47-522	NEW-E 89-22-043	220-55-110	AMD-P 89-03-013
220-40-02100Q	NEW-E 89-19-019	220-47-522	REP-E 89-23-011	220-55-110	AMD 89-07-071
220-40-02100Q	REP-E 89-19-029	220-47-523	NEW-E 89-23-011	220-55-11000A	NEW-E 89-03-014
220-40-02100R	NEW-E 89-19-029	220-47-523	REP-E 89-23-039	220-55-115	AMD-P 89-03-013
220-40-02100R	REP-E 89-22-042	220-47-524	NEW-E 89-23-039	220-55-115	AMD 89-07-071
220-40-02100S	NEW-E 89-22-042	220-47-524	REP-E 89-23-072	220-55-11500A	NEW-E 89-03-014
220-40-026	NEW-P 89-12-085	220-47-525	NEW-E 89-23-072	220-55-120	AMD-P 89-03-013
220-40-026	NEW 89-16-056	220-47-525	REP-E 89-23-086	220-55-120	AMD 89-07-071
220-40-027	NEW-P 89-12-085	220-47-526	NEW-E 89-23-086	220-55-12000A	NEW-E 89-03-014
220-40-027	NEW 89-16-056	220-47-526	REP-E 89-23-115	220-55-125	AMD-P 89-03-013
220-44-050	AMD-P 89-03-003	220-47-527	NEW-E 89-23-115	220-55-125	AMD 89-07-071
220-44-050	AMD 89-06-030	220-47-527	REP-E 89-24-044	220-55-12500A	NEW-E 89-03-014
220-44-050	AMD-P 89-11-105	220-47-528	NEW-E 89-24-044	220-55-130	AMD-P 89-03-013
220-44-050	AMD 89-14-069	220-48-015	AMD-P 89-10-068	220-55-130	AMD 89-07-071
220-44-05000V	NEW-E 89-10-019	220-48-015	AMD 89-14-010	220-55-13000A	NEW-E 89-03-014
220-44-05000V	REP-E 89-15-021	220-48-01700B	NEW-E 89-07-033	220-55-135	REP-P 89-03-013
220-44-05000W	NEW-E 89-15-021	220-48-029	AMD-P 89-10-068	220-55-135	REP 89-07-071
220-44-05000W	REP-E 89-16-038	220-48-029	AMD 89-14-010	220-55-140	NEW-P 89-03-013
220-44-05000X	NEW-E 89-16-038	220-48-02900D	NEW-E 89-19-041	220-55-140	NEW 89-07-071
220-44-05000X	REP-E 89-20-045	220-48-062	AMD-P 89-10-068	220-55-150	NEW-P 89-23-114
220-44-05000Y	NEW-E 89-20-045	220-48-062	AMD 89-14-010	220-55-200	NEW-P 89-09-049
220-44-05000Y	REP-E 89-23-038	220-49-017	AMD-P 89-10-068	220-56-100	AMD-P 89-03-075
220-44-05000Z	NEW-E 89-23-038	220-49-017	AMD 89-14-010	220-56-100	AMD-C 89-07-059
220-47-311	AMD-P 89-09-080	220-49-02000A	NEW-E 89-11-013	220-56-105	AMD-P 89-03-075
220-47-311	AMD 89-13-004	220-49-02000A	REP-E 89-11-014	220-56-105	AMD-C 89-07-059
220-47-312	AMD-P 89-09-080	220-49-02000B	NEW-E 89-11-014	220-56-105	AMD 89-07-060
220-47-312	AMD 89-13-004	220-49-02000Y	NEW-E 89-09-041	220-56-116	AMD-P 89-07-018
220-47-313	AMD-P 89-09-080	220-49-02000Y	REP-E 89-10-010	220-56-116	AMD 89-10-032
220-47-313	AMD 89-13-004	220-49-02000Z	NEW-E 89-10-010	220-56-120	REP-P 89-03-075
220-47-401	AMD-P 89-09-080	220-49-02000Z	REP-E 89-11-013	220-56-120	REP-C 89-07-059
220-47-401	AMD 89-13-004	220-49-063	NEW-P 89-24-100	220-56-120	REP 89-07-060
220-47-411	AMD-P 89-09-080	220-49-064	NEW-P 89-24-100	220-56-126	AMD-P 89-03-075
220-47-411	AMD 89-13-004	220-52-03000E	NEW-E 89-10-034	220-56-126	AMD-C 89-07-059
220-47-412	AMD-P 89-09-080	220-52-04600T	NEW-E 89-23-122	220-56-126	AMD 89-07-060
220-47-412	AMD 89-13-004	220-52-04600T	REP-E 89-24-101	220-56-128	AMD-P 89-03-075
220-47-413	AMD-P 89-09-080	220-52-04600U	NEW-E 89-24-101	220-56-128	AMD-C 89-07-059
220-47-413	AMD 89-13-004	220-52-05100B	NEW-E 89-11-049	220-56-128	AMD 89-07-060
220-47-414	AMD-P 89-09-080	220-52-05100B	REP-E 89-11-066	220-56-12800D	NEW-E 89-17-046
220-47-414	AMD 89-13-004	220-52-05100C	NEW-E 89-11-066	220-56-12800D	REP-E 89-17-070
220-47-500	NEW-E 89-16-008	220-52-07100D	NEW-E 89-17-142	220-56-12800E	NEW-E 89-17-070
220-47-500	REP-E 89-16-054	220-55-010	AMD-P 89-03-013	220-56-133	NEW-P 89-03-075
220-47-504	NEW-E 89-16-054	220-55-010	AMD 89-07-071	220-56-133	NEW-C 89-07-059
220-47-504	REP-E 89-17-015	220-55-015	AMD-P 89-03-013	220-56-133	NEW 89-07-060
220-47-505	NEW-E 89-17-015	220-55-015	AMD 89-07-071	220-56-13300A	NEW-E 89-08-074
220-47-505	REP-E 89-17-045	220-55-020	REP-P 89-03-013	220-56-156	AMD-P 89-10-060
220-47-506	NEW-E 89-17-045	220-55-020	REP 89-07-071	220-56-156	AMD-P 89-11-080
220-47-506	REP-E 89-17-082	220-55-025	REP-P 89-03-013	220-56-156	AMD-C 89-15-010
220-47-507	NEW-E 89-17-082	220-55-025	REP 89-07-071	220-56-156	AMD-C 89-17-018
220-47-507	REP-E 89-18-012	220-55-030	REP-P 89-03-013	220-56-156	AMD-C 89-17-019
220-47-508	NEW-E 89-18-012	220-55-030	REP 89-07-071	220-56-175	AMD-P 89-03-013
220-47-508	REP-E 89-18-016	220-55-035	REP-P 89-03-013	220-56-175	AMD 89-07-071
220-47-509	NEW-E 89-18-016	220-55-035	REP 89-07-071	220-56-180	AMD-P 89-03-075
220-47-509	REP-E 89-18-041	220-55-040	AMD-P 89-03-013	220-56-180	AMD-C 89-07-059
220-47-510	NEW-E 89-18-041	220-55-040	AMD 89-07-071	220-56-180	AMD 89-07-060
220-47-510	REP-E 89-18-042	220-55-04000A	NEW-E 89-03-014	220-56-18000B	NEW-E 89-08-074
220-47-511	NEW-E 89-18-042	220-55-045	REP-P 89-03-013	220-56-185	AMD-P 89-03-075
220-47-511	REP-E 89-18-065	220-55-045	REP-E 89-03-014	220-56-185	AMD-C 89-07-059
220-47-512	NEW-E 89-18-065	220-55-045	REP 89-07-071	220-56-185	AMD 89-07-060
220-47-512	REP-E 89-18-094	220-55-060	AMD-P 89-03-013	220-56-190	AMD-P 89-03-075
220-47-513	NEW-E 89-18-094	220-55-060	AMD 89-07-071	220-56-190	AMD-C 89-07-059

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
220-56-190	AMD	89-07-060	220-56-355	AMD-C	89-07-059
220-56-19000J	NEW-E	89-08-074	220-56-355	AMD	89-07-060
220-56-19000J	REP-E	89-10-031	220-56-35500B	NEW-E	89-08-074
220-56-19000K	NEW-E	89-09-072	220-56-36000R	NEW-E	89-07-066
220-56-19000K	REP-E	89-14-011	220-56-36000S	NEW-E	89-21-013
220-56-19000L	NEW-E	89-14-011	220-56-380	AMD-P	89-03-075
220-56-19000L	REP-E	89-16-027	220-56-380	AMD-C	89-07-059
220-56-19000M	NEW-E	89-14-047	220-56-380	AMD	89-07-060
220-56-19000M	REP-E	89-17-062	220-56-38000C	NEW-E	89-13-021
220-56-19000N	NEW-E	89-16-027	220-56-38000C	REP-E	89-13-025
220-56-19000N	REP-E	89-17-122	220-56-38000D	NEW-E	89-13-025
220-56-19000P	NEW-E	89-17-062	220-56-38000E	NEW-E	89-19-081
220-56-19000P	REP-E	89-19-002	220-57-120	AMD-P	89-03-075
220-56-19000Q	NEW-E	89-17-122	220-57-120	AMD-C	89-07-059
220-56-19000Q	REP-E	89-20-034	220-57-120	AMD	89-07-060
220-56-195	AMD-P	89-03-075	220-57-130	AMD-P	89-03-075
220-56-195	AMD-C	89-07-059	220-57-130	AMD-C	89-07-059
220-56-195	AMD	89-07-060	220-57-130	AMD	89-07-060
220-56-196	AMD-P	89-03-075	220-57-135	AMD-P	89-03-075
220-56-196	AMD-C	89-07-059	220-57-135	AMD-C	89-07-059
220-56-196	AMD	89-07-060	220-57-135	AMD	89-07-060
220-56-19700A	NEW-E	89-17-046	220-57-137	AMD-P	89-03-075
220-56-235	AMD-P	89-03-075	220-57-137	AMD-C	89-07-059
220-56-235	AMD-C	89-07-059	220-57-137	AMD	89-07-060
220-56-235	AMD	89-07-060	220-57-140	AMD-P	89-03-075
220-56-23500E	NEW-E	89-08-074	220-57-140	AMD-C	89-07-059
220-56-240	AMD-P	89-03-075	220-57-140	AMD	89-07-060
220-56-240	AMD-C	89-07-059	220-57-14000J	NEW-E	89-11-001
220-56-240	AMD	89-07-060	220-57-14000J	REP-E	89-16-018
220-56-24000E	NEW-E	89-08-074	220-57-14000K	NEW-E	89-16-018
220-56-24000F	NEW-E	89-15-020	220-57-14000K	REP-E	89-21-012
220-56-245	AMD-P	89-03-075	220-57-14000L	NEW-E	89-21-012
220-56-245	AMD-C	89-07-059	220-57-14000L	REP-E	89-21-022
220-56-245	AMD	89-07-060	220-57-14000M	NEW-E	89-21-022
220-56-24500F	NEW-E	89-06-052	220-57-150	AMD-P	89-03-075
220-56-250	AMD-P	89-07-018	220-57-150	AMD-C	89-07-059
220-56-250	AMD	89-10-032	220-57-150	AMD	89-07-060
220-56-255	AMD-P	89-03-075	220-57-155	AMD-P	89-03-075
220-56-255	AMD-C	89-07-059	220-57-155	AMD-C	89-07-059
220-56-255	AMD	89-07-060	220-57-155	AMD	89-07-060
220-56-25500E	NEW-E	89-06-052	220-57-160	AMD-P	89-03-075
220-56-282	NEW-P	89-03-075	220-57-160	AMD-C	89-07-059
220-56-282	NEW-C	89-07-059	220-57-160	AMD	89-07-060
220-56-282	NEW	89-07-060	220-57-160	AMD-P	89-11-104
220-56-28200A	NEW-E	89-08-074	220-57-160	AMD	89-15-022
220-56-295	AMD-P	89-03-075	220-57-16000A	NEW-E	89-19-010
220-56-295	AMD-C	89-07-059	220-57-16000A	REP-E	89-20-004
220-56-295	AMD	89-07-060	220-57-16000B	NEW-E	89-19-040
220-56-310	AMD-P	89-03-075	220-57-16000C	NEW-E	89-22-044
220-56-310	AMD-C	89-07-059	220-57-16000X	NEW-E	89-08-031
220-56-310	AMD	89-07-060	220-57-16000Y	NEW-E	89-13-003
220-56-31000I	NEW-E	89-08-074	220-57-16000Z	NEW-E	89-16-019
220-56-315	AMD-P	89-03-075	220-57-165	AMD-P	89-03-075
220-56-315	AMD-C	89-07-059	220-57-165	AMD-C	89-07-059
220-56-315	AMD	89-07-060	220-57-165	AMD	89-07-060
220-56-320	AMD-P	89-03-075	220-57-180	AMD-P	89-03-075
220-56-320	AMD-C	89-07-059	220-57-180	AMD-C	89-07-059
220-56-320	AMD	89-07-060	220-57-180	AMD	89-07-060
220-56-32000B	NEW-E	89-08-074	220-57-181	AMD-P	89-03-075
220-56-325	AMD-P	89-03-075	220-57-181	AMD-C	89-07-059
220-56-325	AMD-C	89-07-059	220-57-181	AMD	89-07-060
220-56-325	AMD	89-07-060	220-57-185	AMD-P	89-03-075
220-56-32500P	NEW-E	89-11-049	220-57-185	AMD-C	89-07-059
220-56-32500P	REP-E	89-11-066	220-57-185	AMD	89-07-060
220-56-32500Q	NEW-E	89-11-066	220-57-190	AMD-P	89-03-075
220-56-345	REP-P	89-03-075	220-57-190	AMD-C	89-07-059
220-56-345	REP-C	89-07-059	220-57-190	AMD	89-07-060
220-56-345	REP	89-07-060	220-57-195	AMD-P	89-03-075
220-56-350	AMD-P	89-03-075	220-57-195	AMD-C	89-07-059
220-56-350	AMD-C	89-07-059	220-57-195	AMD	89-07-060
220-56-350	AMD	89-07-060	220-57-200	AMD-P	89-03-075
220-56-35000E	NEW-E	89-08-074	220-57-200	AMD-C	89-07-059
220-56-35000F	NEW-E	89-13-021	220-57-200	AMD	89-07-060
220-56-35000F	REP-E	89-13-025	220-57-205	AMD-P	89-03-075
220-56-35000G	NEW-E	89-13-025	220-57-205	AMD-C	89-07-059
220-56-35000H	NEW-E	89-19-081	220-57-205	AMD	89-07-060
220-56-355	AMD-P	89-03-075	220-57-210	AMD-P	89-03-075

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
220-57-365	AMD	89-07-060	220-57-510	AMD-P	89-03-075
220-57-370	AMD-P	89-03-075	220-57-510	AMD-C	89-07-059
220-57-370	AMD-C	89-07-059	220-57-510	AMD	89-07-060
220-57-370	AMD	89-07-060	220-57-5100D	NEW-E	89-08-073
220-57-375	AMD-P	89-03-075	220-57-520	AMD-P	89-03-075
220-57-375	AMD-C	89-07-059	220-57-520	AMD-C	89-07-059
220-57-375	AMD	89-07-060	220-57-520	AMD	89-07-060
220-57-380	AMD-P	89-03-075	220-57-525	AMD-P	89-03-075
220-57-380	AMD-C	89-07-059	220-57-525	AMD-C	89-07-059
220-57-380	AMD	89-07-060	220-57-525	AMD	89-07-060
220-57-385	AMD-P	89-03-075	220-57A-030	AMD-P	89-03-075
220-57-385	AMD-C	89-07-059	220-57A-030	AMD-C	89-07-059
220-57-385	AMD	89-07-060	220-57A-030	AMD	89-07-060
220-57-400	AMD-P	89-03-075	220-57A-175	AMD-P	89-03-075
220-57-400	AMD-C	89-07-059	220-57A-175	AMD-C	89-07-059
220-57-400	AMD	89-07-060	220-57A-175	AMD	89-07-060
220-57-405	AMD-P	89-03-075	220-57A-180	AMD-P	89-03-075
220-57-405	AMD-C	89-07-059	220-57A-180	AMD-C	89-07-059
220-57-405	AMD	89-07-060	220-57A-180	AMD	89-07-060
220-57-410	AMD-P	89-03-075	220-57A-18300B	NEW-E	89-16-019
220-57-410	AMD-C	89-07-059	220-69-220	AMD-P	89-23-114
220-57-410	AMD	89-07-060	220-69-237	AMD-P	89-03-013
220-57-415	AMD-P	89-03-075	220-69-237	AMD	89-07-071
220-57-415	AMD-C	89-07-059	220-69-237	AMD-P	89-23-114
220-57-415	AMD	89-07-060	220-69-23700A	NEW-E	89-03-014
220-57-420	AMD-P	89-03-075	220-69-238	AMD-P	89-03-013
220-57-420	AMD-C	89-07-059	220-69-238	AMD	89-07-071
220-57-420	AMD	89-07-060	220-69-238	AMD-P	89-23-114
220-57-425	AMD-P	89-03-075	220-69-23800A	NEW-E	89-03-014
220-57-425	AMD-C	89-07-059	220-69-247	REP-P	89-03-013
220-57-425	AMD	89-07-060	220-69-247	REP-E	89-03-014
220-57-42500S	NEW-E	89-16-077	220-69-247	REP	89-07-071
220-57-430	AMD-P	89-03-075	220-69-260	AMD-P	89-23-114
220-57-430	AMD-C	89-07-059	220-69-264	AMD-P	89-23-114
220-57-430	AMD	89-07-060	220-76-010	AMD-P	89-07-019
220-57-435	AMD-P	89-03-075	220-76-010	AMD	89-10-033
220-57-435	AMD-C	89-07-059	220-76-020	AMD-P	89-07-019
220-57-435	AMD	89-07-060	220-76-020	AMD	89-10-033
220-57-43500E	NEW-E	89-14-048	220-77-080	NEW-P	89-03-004
220-57-43500E	REP-E	89-16-010	220-77-080	NEW	89-06-031
220-57-440	AMD-P	89-03-075	220-130-010	AMD	89-03-015
220-57-440	AMD-C	89-07-059	220-130-020	AMD	89-03-015
220-57-440	AMD	89-07-060	220-130-070	NEW	89-03-015
220-57-445	AMD-P	89-03-075	220-140-001	NEW-P	89-23-092
220-57-445	AMD-C	89-07-059	220-140-001	NEW-C	89-24-099
220-57-445	AMD	89-07-060	220-140-010	NEW-P	89-23-092
220-57-450	AMD-P	89-03-075	220-140-010	NEW-C	89-24-099
220-57-450	AMD-C	89-07-059	220-140-020	NEW-P	89-23-092
220-57-450	AMD	89-07-060	220-140-020	NEW-C	89-24-099
220-57-455	AMD-P	89-03-075	220-140-030	NEW-P	89-23-092
220-57-455	AMD-C	89-07-059	220-140-030	NEW-C	89-24-099
220-57-455	AMD	89-07-060	222-16-010	AMD-P	89-20-066
220-57-460	AMD-P	89-03-075	222-16-050	AMD-P	89-20-066
220-57-460	AMD-C	89-07-059	222-16-050	PREP	89-24-079
220-57-460	AMD	89-07-060	222-16-060	NEW-P	89-20-066
220-57-465	AMD-P	89-03-075	222-20-040	AMD-P	89-20-066
220-57-465	AMD-C	89-07-059	222-20-050	AMD-P	89-20-066
220-57-465	AMD	89-07-060	222-46-020	AMD-P	89-20-066
220-57-470	AMD-P	89-03-075	222-46-030	AMD-P	89-20-066
220-57-470	AMD-C	89-07-059	222-46-040	AMD-P	89-20-066
220-57-470	AMD	89-07-060	230-02-010	AMD-P	89-21-067
220-57-475	AMD-P	89-03-075	230-02-022	NEW-P	89-19-083
220-57-475	AMD-C	89-07-059	230-02-022	NEW	89-24-002
220-57-475	AMD	89-07-060	230-02-030	AMD-P	89-09-045
220-57-490	AMD-P	89-03-075	230-02-030	AMD	89-13-059
220-57-490	AMD-C	89-07-059	230-02-035	NEW-P	89-19-084
220-57-490	AMD	89-07-060	230-02-035	NEW	89-24-003
220-57-49700D	NEW-E	89-12-012	230-02-150	REP-P	89-07-053
220-57-500	AMD-P	89-03-075	230-02-150	REP	89-11-048
220-57-500	AMD-C	89-07-059	230-02-155	NEW-P	89-05-064
220-57-500	AMD	89-07-060	230-02-155	NEW	89-09-047
220-57-502	AMD-P	89-03-075	230-02-160	NEW-P	89-05-064
220-57-502	AMD-C	89-07-059	230-02-160	NEW	89-09-047
220-57-502	AMD	89-07-060	230-02-161	NEW-P	89-05-064
220-57-50500P	NEW-E	89-08-073	230-02-161	NEW	89-09-047
220-57-50500P	REP-E	89-11-018	230-02-163	NEW-P	89-05-064
220-57-50500Q	NEW-E	89-11-018	230-02-163	NEW	89-09-047

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
230-08-010	AMD	89-24-002	230-30-106	AMD-P	89-07-053
230-08-017	PREP	89-17-136	230-30-106	AMD	89-11-048
230-08-017	AMD-P	89-19-083	230-40-010	AMD-P	89-24-001
230-08-017	AMD	89-24-002	230-40-070	AMD	89-05-024
230-08-025	PREP	89-17-136	230-40-070	AMD-P	89-07-053
230-08-025	AMD-P	89-19-083	230-40-070	AMD	89-11-048
230-08-025	AMD	89-24-002	230-40-120	AMD-P	89-11-046
230-08-060	PREP	89-17-136	230-40-120	AMD	89-15-039
230-08-060	NEW-P	89-19-083	230-40-120	AMD-P	89-24-001
230-08-060	NEW	89-24-002	230-40-125	NEW-P	89-24-001
230-08-070	AMD-P	89-03-066	230-50-010	RE-AD-E	89-15-037
230-08-070	AMD	89-07-045	230-50-010	PREP	89-17-136
230-08-095	AMD-P	89-05-064	230-50-010	AMD-P	89-19-084
230-08-095	AMD	89-09-047	230-50-010	AMD-E	89-21-068
230-08-120	AMD-P	89-05-064	230-50-010	AMD	89-24-003
230-08-120	AMD	89-09-047	230-50-012	RE-AD-E	89-15-037
230-08-122	NEW-P	89-05-064	230-50-012	PREP	89-17-136
230-08-122	NEW	89-09-047	230-50-012	AMD-P	89-19-084
230-08-125	AMD-P	89-05-064	230-50-012	AMD-E	89-21-068
230-08-125	AMD	89-09-047	230-50-012	AMD	89-24-003
230-08-140	PREP	89-17-136	230-50-020	RE-AD-E	89-15-037
230-08-140	AMD-P	89-19-083	230-50-020	PREP	89-17-136
230-08-140	AMD	89-24-002	230-50-020	AMD-P	89-19-084
230-08-150	PREP	89-17-136	230-50-020	AMD-E	89-21-068
230-08-150	AMD-P	89-19-083	230-50-020	AMD	89-24-003
230-08-150	AMD	89-24-002	230-50-030	RE-AD-E	89-15-037
230-08-170	PREP	89-17-136	230-50-030	PREP	89-17-136
230-08-180	NEW-P	89-19-083	230-50-030	AMD-P	89-19-084
230-08-180	NEW	89-24-002	230-50-030	AMD-E	89-21-068
230-12-010	AMD-P	89-11-046	230-50-030	AMD	89-24-003
230-12-010	AMD	89-15-039	230-50-060	RE-AD-E	89-15-037
230-12-020	AMD-P	89-05-064	230-50-060	PREP	89-17-136
230-12-020	AMD	89-09-047	230-50-060	AMD-P	89-19-084
230-12-020	AMD-P	89-13-057	230-50-060	AMD-E	89-21-068
230-12-020	AMD	89-17-056	230-50-060	AMD	89-24-003
230-12-050	AMD	89-05-024	230-50-070	RE-AD-E	89-15-037
230-12-053	NEW	89-05-024	230-50-070	PREP	89-17-136
230-12-060	NEW-P	89-05-064	230-50-070	REP-P	89-19-084
230-12-060	NEW	89-09-047	230-50-070	REP	89-24-003
230-20-064	AMD-P	89-05-064	230-50-080	RE-AD-E	89-15-037
230-20-064	AMD-E	89-07-046	230-50-090	RE-AD-E	89-15-037
230-20-064	AMD	89-09-047	230-50-100	RE-AD-E	89-15-037
230-20-246	AMD-P	89-13-057	230-50-110	RE-AD-E	89-15-037
230-20-246	AMD-P	89-13-058	230-50-140	RE-AD-E	89-15-037
230-20-246	AMD	89-17-056	230-50-140	PREP	89-17-136
230-20-248	NEW-P	89-03-066	230-50-140	REP-P	89-19-084
230-20-248	NEW	89-07-045	230-50-140	REP	89-24-003
230-20-325	AMD	89-05-024	230-50-150	RE-AD-E	89-15-037
230-20-325	AMD-P	89-21-067	230-50-150	PREP	89-17-136
230-20-325	AMD-P	89-24-001	230-50-150	AMD-P	89-19-084
230-20-350	AMD-P	89-07-053	230-50-150	AMD-E	89-21-068
230-20-350	AMD	89-11-048	230-50-150	AMD	89-24-003
230-20-605	PREP	89-17-136	230-50-160	RE-AD-E	89-15-037
230-20-605	AMD-P	89-19-083	230-50-160	PREP	89-17-136
230-20-605	AMD	89-24-002	230-50-160	AMD-P	89-19-084
230-20-630	PREP	89-17-136	230-50-160	AMD-E	89-21-068
230-20-630	AMD-P	89-19-083	230-50-160	AMD	89-24-003
230-20-630	AMD	89-24-002	230-50-170	RE-AD-E	89-15-037
230-20-670	PREP	89-17-136	230-50-180	RE-AD-E	89-15-037
230-20-670	NEW-P	89-19-083	230-50-190	RE-AD-E	89-15-037
230-20-670	NEW	89-24-002	230-50-190	PREP	89-17-136
230-20-699	AMD	89-05-024	230-50-190	AMD-P	89-19-084
230-20-699	AMD-E	89-05-025	230-50-190	AMD-E	89-21-068
230-20-699	AMD-E	89-11-047	230-50-190	AMD	89-24-003
230-20-699	AMD-P	89-13-057	230-50-200	RE-AD-E	89-15-037
230-20-699	AMD	89-17-056	230-50-200	PREP	89-17-136
230-25-065	AMD-P	89-11-046	230-50-200	AMD-P	89-19-084
230-25-065	AMD	89-15-039	230-50-200	AMD-E	89-21-068
230-25-160	AMD-P	89-11-046	230-50-200	AMD	89-24-003
230-25-160	AMD	89-15-039	230-50-210	RE-AD-E	89-15-037
230-30-030	AMD-P	89-17-081	230-50-210	PREP	89-17-136
230-30-030	AMD	89-21-069	230-50-210	AMD-P	89-19-084
230-30-070	AMD-P	89-13-057	230-50-210	AMD-E	89-21-068
230-30-070	AMD	89-17-056	230-50-210	AMD	89-24-003
230-30-070	AMD-P	89-24-001	230-50-220	RE-AD-E	89-15-037
230-30-072	AMD-P	89-17-081	230-50-220	PREP	89-17-136
230-30-072	AMD	89-21-069	230-50-220	REP-P	89-19-084

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
230-50-570	NEW	89-24-003	232-12-051	AMD	89-11-062
230-50-580	NEW-P	89-19-084	232-12-054	AMD-P	89-24-081
230-50-580	NEW-E	89-21-068	232-12-057	AMD-P	89-14-109
230-50-580	NEW	89-24-003	232-12-057	AMD-C	89-17-144
230-50-600	RE-AD-E	89-15-037	232-12-057	AMD-W	89-24-007
230-50-600	PREP	89-17-136	232-12-081	AMD-P	89-14-106
230-50-600	REP-P	89-19-084	232-12-081	AMD-C	89-17-145
230-50-600	REP	89-24-003	232-12-081	AMD-W	89-24-004
230-50-610	RE-AD-E	89-15-037	232-12-082	NEW-P	89-17-146
230-50-610	AMD-P	89-19-084	232-12-177	RE-AD-E	89-13-085
230-50-610	AMD-E	89-21-068	232-12-177	AMD-P	89-14-113
230-50-610	AMD	89-24-003	232-12-177	AMD-C	89-17-147
230-50-620	RE-AD-E	89-15-037	232-12-184	RE-AD-E	89-13-085
230-50-620	PREP	89-17-136	232-12-184	RE-AD-P	89-14-113
230-50-620	REP-P	89-19-084	232-12-184	RE-AD-C	89-17-147
230-50-620	REP	89-24-003	232-12-187	RE-AD-E	89-13-085
230-50-630	RE-AD-E	89-15-037	232-12-187	RE-AD-P	89-14-113
230-50-630	AMD-P	89-19-084	232-12-187	RE-AD-C	89-17-147
230-50-630	AMD-E	89-21-068	232-12-191	AMD-P	89-14-115
230-50-630	AMD	89-24-003	232-12-191	AMD-C	89-17-148
230-50-640	RE-AD-E	89-15-037	232-12-194	REP-P	89-14-110
230-50-650	RE-AD-E	89-15-037	232-12-194	REP-W	89-24-008
230-50-660	RE-AD-E	89-15-037	232-12-197	REP-P	89-14-110
230-50-670	RE-AD-E	89-15-037	232-12-197	REP-W	89-24-008
230-50-680	RE-AD-E	89-15-037	232-12-207	REP-P	89-14-110
230-50-700	RE-AD-E	89-15-037	232-12-207	REP-W	89-24-008
230-50-750	RE-AD-E	89-15-037	232-12-221	REP-P	89-14-110
230-50-760	RE-AD-E	89-15-037	232-12-221	REP-W	89-24-008
230-50-800	RE-AD-E	89-15-037	232-12-251	RE-AD-E	89-13-085
230-50-800	AMD-P	89-19-084	232-12-251	RE-AD-P	89-14-113
230-50-800	AMD-E	89-21-068	232-12-251	RE-AD-C	89-17-147
230-50-800	AMD	89-24-003	232-12-254	RE-AD-E	89-13-085
230-50-810	RE-AD-E	89-15-037	232-12-254	RE-AD-P	89-14-113
230-50-810	PREP	89-17-136	232-12-254	RE-AD-C	89-17-147
230-50-810	REP-P	89-19-084	232-12-267	AMD-P	89-06-079
230-50-810	REP	89-24-003	232-12-267	AMD-C	89-09-058
230-50-820	RE-AD-E	89-15-037	232-12-267	AMD	89-14-018
230-50-820	PREP	89-17-136	232-12-271	AMD-W	89-04-034
230-50-820	REP-P	89-19-084	232-12-271	AMD-P	89-08-104
230-50-820	REP	89-24-003	232-12-271	AMD	89-12-044
230-50-830	RE-AD-E	89-15-037	232-12-285	NEW-P	89-08-105
230-50-830	PREP	89-17-136	232-12-285	NEW-W	89-12-043
230-50-830	REP-P	89-19-084	232-12-297	NEW-P	89-24-082
230-50-830	REP	89-24-003	232-12-618	NEW-P	89-17-149
230-50-850	RE-AD-E	89-15-037	232-12-800	REP-P	89-14-127
230-50-850	AMD-P	89-19-084	232-12-800	REP-W	89-24-010
230-50-850	AMD-E	89-21-068	232-12-804	REP-P	89-14-127
230-50-850	AMD	89-24-003	232-12-804	REP-W	89-24-010
230-50-950	RE-AD-E	89-15-037	232-12-807	REP-P	89-14-127
230-50-950	PREP	89-17-136	232-12-807	REP-W	89-24-010
230-50-950	REP-P	89-19-084	232-12-827	REP-P	89-14-112
230-50-950	REP	89-24-003	232-12-827	REP-W	89-24-009
230-60-010	AMD-P	89-21-067	232-12-828	NEW-E	89-08-034
230-60-015	REP-P	89-19-084	232-12-829	NEW-P	89-08-107
230-60-015	REP	89-23-003	232-12-829	NEW	89-11-073
230-60-020	REP-P	89-22-049	232-28-110	REP-P	89-08-108
230-60-025	AMD-P	89-21-067	232-28-110	REP	89-11-063
230-60-100	NEW-P	89-24-001	232-28-20401	REP-P	89-14-108
232-02-100	NEW-P	89-14-127	232-28-20401	REP-W	89-24-006
232-02-100	NEW-W	89-24-010	232-28-206	REP-P	89-14-108
232-02-120	NEW-P	89-14-127	232-28-206	REP-W	89-24-006
232-02-120	NEW-W	89-24-010	232-28-209	REP-P	89-14-108
232-02-140	NEW-P	89-14-127	232-28-209	REP-W	89-24-006
232-02-140	NEW-W	89-24-010	232-28-21201	REP-P	89-14-108
232-12-001	AMD-P	89-06-080	232-28-21201	REP-W	89-24-006
232-12-001	AMD	89-10-026	232-28-217	REP-P	89-08-108
232-12-001	RE-AD-P	89-14-107	232-28-217	REP	89-11-063
232-12-001	RE-AD-W	89-24-005	232-28-218	NEW-P	89-08-108
232-12-011	AMD-P	89-08-102	232-28-218	NEW	89-13-029
232-12-011	AMD	89-11-061	232-28-21810	NEW-P	89-22-135
232-12-011	AMD-P	89-24-080	232-28-21810	NEW	89-24-084
232-12-017	AMD-P	89-17-141	232-28-404	REP-P	89-14-108
232-12-024	AMD-P	89-14-111	232-28-404	REP-W	89-24-006
232-12-024	AMD	89-18-015	232-28-412	REP-P	89-14-093
232-12-025	AMD-P	89-14-105	232-28-412	REP	89-18-040
232-12-025	AMD-W	89-17-140	232-28-413	NEW-P	89-14-093
232-12-051	AMD-P	89-08-103	232-28-413	NEW	89-18-040

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
236-48-009	AMD-P	89-14-013	236-48-155	AMD	89-17-094
236-48-009	AMD	89-17-094	236-48-161	REP-P	89-14-013
236-48-011	AMD-P	89-14-013	236-48-161	REP	89-17-094
236-48-011	AMD	89-17-094	236-48-162	AMD-P	89-14-013
236-48-012	AMD-P	89-14-013	236-48-162	AMD	89-17-094
236-48-012	AMD	89-17-094	236-48-163	AMD-P	89-14-013
236-48-013	AMD-P	89-14-013	236-48-163	AMD	89-17-094
236-48-013	AMD	89-17-094	236-48-164	AMD-P	89-14-013
236-48-021	AMD-P	89-14-013	236-48-164	AMD	89-17-094
236-48-021	AMD	89-17-094	236-48-165	AMD-P	89-14-013
236-48-023	AMD-P	89-14-013	236-48-165	AMD	89-17-094
236-48-023	AMD	89-17-094	236-48-166	AMD-P	89-14-013
236-48-024	AMD-P	89-14-013	236-48-166	AMD	89-17-094
236-48-024	AMD	89-17-094	236-48-167	AMD-P	89-14-013
236-48-025	AMD-P	89-14-013	236-48-167	AMD	89-17-094
236-48-025	AMD	89-17-094	236-48-1901	NEW-P	89-13-030
236-48-026	AMD-P	89-14-013	236-48-1901	NEW	89-18-004
236-48-026	AMD	89-17-094	236-48-230	AMD-P	89-14-013
236-48-035	AMD-P	89-14-013	236-48-230	AMD	89-17-094
236-48-035	AMD	89-17-094	236-48-240	AMD-P	89-14-013
236-48-036	NEW-P	89-14-013	236-48-240	AMD	89-17-094
236-48-036	NEW	89-17-094	236-48-250	AMD-P	89-14-013
236-48-052	NEW-P	89-14-013	236-48-250	AMD	89-17-094
236-48-052	NEW	89-17-094	236-48-251	AMD-P	89-14-013
236-48-061	AMD-P	89-14-013	236-48-251	AMD	89-17-094
236-48-061	AMD	89-17-094	236-48-252	AMD-P	89-14-013
236-48-071	AMD-P	89-14-013	236-48-252	AMD	89-17-094
236-48-071	AMD	89-17-094	236-49-001	AMD-P	89-14-013
236-48-079	AMD-P	89-14-013	236-49-001	AMD	89-17-094
236-48-079	AMD	89-17-094	236-49-010	AMD-P	89-14-013
236-48-081	AMD-P	89-14-013	236-49-010	AMD	89-17-094
236-48-081	AMD	89-17-094	236-49-020	AMD-P	89-14-013
236-48-082	AMD-P	89-14-013	236-49-020	AMD	89-17-094
236-48-082	AMD	89-17-094	236-49-030	AMD-P	89-14-013
236-48-083	AMD-P	89-14-013	236-49-030	AMD	89-17-094
236-48-083	AMD	89-17-094	236-49-040	AMD-P	89-14-013
236-48-084	AMD-P	89-14-013	236-49-040	AMD	89-17-094
236-48-084	AMD	89-17-094	236-49-060	AMD-P	89-14-013
236-48-085	AMD-P	89-14-013	236-49-060	AMD	89-17-094
236-48-085	AMD	89-17-094	236-49-061	AMD-P	89-14-013
236-48-093	AMD-P	89-14-013	236-49-061	AMD	89-17-094
236-48-093	AMD	89-17-094	236-80-010	NEW-P	89-08-033
236-48-095	AMD-P	89-14-013	236-80-020	NEW-P	89-08-033
236-48-095	AMD	89-17-094	236-80-030	NEW-P	89-08-033
236-48-096	AMD-P	89-14-013	236-80-030	AMD	89-17-094
236-48-096	AMD	89-17-094	248-06-385	AMD-E	89-14-095
236-48-098	AMD-P	89-14-013	248-06-385	AMD-E	89-22-091
236-48-098	AMD	89-17-094	248-06-385	AMD-P	89-22-107
236-48-099	AMD-P	89-14-013	248-08-001	REP-E	89-14-096
236-48-099	AMD	89-17-094	248-08-001	REP-E	89-22-092
236-48-101	AMD-P	89-14-013	248-08-001	REP-P	89-22-103
236-48-101	AMD	89-17-094	248-08-010	REP-E	89-14-096
236-48-111	AMD-P	89-14-013	248-08-010	REP-E	89-22-092
236-48-111	AMD	89-17-094	248-08-020	REP-E	89-14-096
236-48-121	AMD-P	89-14-013	248-08-020	REP-E	89-22-092
236-48-121	AMD	89-17-094	248-08-020	REP-P	89-22-103
236-48-122	AMD-P	89-14-013	248-08-030	REP-E	89-14-096
236-48-122	AMD	89-17-094	248-08-030	REP-E	89-22-092
236-48-123	AMD-P	89-14-013	248-08-030	REP-P	89-22-103
236-48-123	AMD	89-17-094	248-08-040	REP-E	89-14-096
236-48-124	AMD-P	89-14-013	248-08-040	REP-E	89-22-092
236-48-124	AMD	89-17-094	248-08-040	REP-P	89-22-103
236-48-131	AMD-P	89-14-013	248-08-050	REP-E	89-14-096
236-48-131	AMD	89-17-094	248-08-050	REP-E	89-22-092
236-48-141	AMD-P	89-14-013	248-08-050	REP-P	89-22-103
236-48-141	AMD	89-17-094	248-08-050	REP-E	89-14-096
236-48-142	AMD-P	89-14-013	248-08-060	REP-E	89-22-092
236-48-142	AMD	89-17-094	248-08-060	REP-P	89-22-103
236-48-143	AMD-P	89-14-013	248-08-070	REP-E	89-14-096
236-48-143	AMD	89-17-094	248-08-070	REP-E	89-22-092
236-48-151	AMD-P	89-14-013	248-08-070	REP-P	89-22-103
236-48-151	AMD	89-17-094	248-08-075	REP-E	89-14-096
236-48-152	AMD-P	89-14-013	248-08-075	REP-E	89-22-092
236-48-152	AMD	89-17-094	248-08-075	REP-P	89-22-103
236-48-153	AMD-P	89-14-013	248-08-080	REP-E	89-14-096
236-48-153	AMD	89-17-094	248-08-080	REP-E	89-22-092
236-48-155	AMD-P	89-14-013	248-08-080	REP-P	89-22-103

Table of WAC Sections Affected

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
248-14-247	AMD-P	89-04-054	248-17-213	AMD-P	89-10-069
248-14-247	AMD	89-08-054	248-17-213	AMD-E	89-10-071
248-14-270	AMD	89-06-050	248-17-213	AMD-E	89-16-070
248-14-285	AMD-P	89-04-054	248-17-213	AMD-P	89-17-128
248-14-285	AMD	89-08-054	248-17-213	AMD	89-22-108
248-14-297	REP-P	89-15-052	248-17-213	AMD-E	89-23-028
248-14-297	REP-C	89-18-054	248-17-230	AMD-E	89-14-095
248-14-297	REP	89-19-024	248-17-230	AMD-E	89-22-091
248-14-298	NEW-P	89-15-052	248-17-230	AMD-P	89-22-107
248-14-298	NEW-C	89-18-054	248-17-260	AMD-P	89-10-069
248-14-298	NEW	89-19-024	248-17-260	AMD-E	89-10-071
248-14-300	AMD-P	89-04-054	248-17-260	AMD-E	89-16-070
248-14-300	AMD	89-08-054	248-17-260	AMD-P	89-17-128
248-15-040	AMD	89-06-003	248-17-260	AMD	89-22-108
248-15-050	AMD	89-06-003	248-17-260	AMD-E	89-23-028
248-15-110	AMD-E	89-14-095	248-17-261	NEW-E	89-16-070
248-15-110	AMD-E	89-22-091	248-17-261	NEW-P	89-17-128
248-15-110	AMD-P	89-22-107	248-17-261	NEW	89-22-108
248-16-001	AMD	89-09-034	248-17-261	NEW-E	89-23-028
248-16-030	REP	89-09-034	248-18-001	AMD-P	89-17-124
248-16-031	NEW	89-09-034	248-18-001	AMD	89-22-106
248-16-031	AMD-E	89-14-095	248-18-015	AMD-E	89-14-095
248-16-031	AMD-E	89-22-091	248-18-015	AMD-E	89-22-091
248-16-031	AMD-P	89-22-107	248-18-015	AMD-P	89-22-107
248-16-033	NEW	89-09-034	248-18-035	AMD-P	89-17-006
248-16-035	REP	89-09-034	248-18-035	AMD	89-21-039
248-16-036	NEW	89-09-034	248-18-215	REP-P	89-17-124
248-16-040	REP	89-09-034	248-18-215	REP	89-22-106
248-16-045	REP	89-09-034	248-18-216	NEW-P	89-17-124
248-16-046	NEW	89-09-034	248-18-216	NEW	89-22-106
248-16-048	NEW-P	89-17-007	248-18-220	REP-P	89-17-124
248-16-048	NEW	89-21-038	248-18-220	REP	89-22-106
248-16-050	REP	89-09-034	248-18-221	NEW-P	89-17-124
248-16-055	REP	89-09-034	248-18-221	NEW	89-22-106
248-16-056	REP	89-09-034	248-18-222	REP-P	89-17-124
248-16-057	NEW	89-09-034	248-18-222	REP	89-22-106
248-16-060	AMD	89-09-034	248-18-223	REP-P	89-17-124
248-16-070	AMD	89-09-034	248-18-223	REP	89-22-106
248-16-080	AMD	89-09-034	248-18-224	NEW-P	89-17-124
248-16-090	AMD	89-09-034	248-18-224	NEW	89-22-106
248-16-105	AMD	89-09-034	248-18-310	REP-P	89-17-126
248-16-110	AMD	89-09-034	248-18-310	REP	89-22-109
248-16-115	AMD	89-09-034	248-18-311	NEW-P	89-17-126
248-16-120	REP	89-09-034	248-18-311	NEW	89-22-109
248-16-121	NEW	89-09-034	248-18-515	AMD-P	89-17-125
248-16-130	REP	89-09-034	248-18-515	AMD	89-22-105
248-16-131	NEW	89-09-034	248-18-539	REP-P	89-17-124
248-16-140	REP	89-09-034	248-18-539	REP	89-22-106
248-16-141	NEW	89-09-034	248-18-541	NEW-P	89-17-124
248-16-150	AMD	89-09-034	248-18-541	NEW	89-22-106
248-16-160	AMD	89-09-034	248-18-600	REP-P	89-17-124
248-16-170	AMD	89-09-034	248-18-600	REP	89-22-106
248-16-180	AMD	89-09-034	248-18-601	NEW-P	89-17-124
248-16-190	AMD	89-09-034	248-18-601	NEW	89-22-106
248-16-202	AMD	89-09-034	248-18-605	REP-P	89-17-124
248-16-213	AMD	89-09-034	248-18-605	REP	89-22-106
248-16-215	AMD	89-09-034	248-18-606	NEW-P	89-17-124
248-16-216	NEW	89-09-034	248-18-606	NEW	89-22-106
248-16-222	AMD	89-09-034	248-18-607	REP-P	89-17-124
248-16-223	AMD	89-09-034	248-18-607	REP	89-22-106
248-16-226	AMD	89-09-034	248-18-608	NEW-P	89-17-124
248-16-227	REP	89-09-034	248-18-608	NEW	89-22-106
248-16-228	REP	89-09-034	248-18-615	REP-P	89-17-124
248-16-229	NEW	89-09-034	248-18-615	REP	89-22-106
248-16-230	AMD	89-09-034	248-18-616	NEW-P	89-17-124
248-16-235	AMD	89-09-034	248-18-616	NEW	89-22-106
248-16-300	NEW	89-09-034	248-18-636	REP-P	89-17-124
248-16-900	AMD	89-09-034	248-18-636	REP	89-22-106
248-17-020	AMD-P	89-10-069	248-18-637	NEW-P	89-17-124
248-17-020	AMD-E	89-10-071	248-18-637	NEW	89-22-106
248-17-020	AMD-E	89-16-070	248-18-655	REP-P	89-17-126
248-17-020	AMD-P	89-17-128	248-18-655	REP	89-22-109
248-17-020	AMD	89-22-108	248-18-656	NEW-P	89-17-126
248-17-020	AMD-E	89-23-028	248-18-656	NEW	89-22-109
248-17-060	AMD-E	89-14-095	248-18-710	REP-P	89-17-125
248-17-060	AMD-E	89-22-091	248-18-710	REP	89-22-105
248-17-060	AMD-P	89-22-107	248-18-711	NEW-P	89-17-125

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
248-27-045	NEW-P	89-07-023	248-31-035	NEW	89-12-077
248-27-045	NEW	89-12-077	248-31-035	AMD-E	89-15-057
248-27-045	AMD-E	89-15-057	248-31-035	AMD-E	89-22-091
248-27-045	AMD-E	89-22-091	248-31-035	AMD-P	89-22-107
248-27-045	AMD-P	89-22-107	248-31-040	REP-P	89-07-023
248-27-050	REP-P	89-07-023	248-31-040	REP	89-12-077
248-27-050	REP	89-12-077	248-31-045	NEW-P	89-07-023
248-27-055	NEW-P	89-07-023	248-31-045	NEW	89-12-077
248-27-055	NEW	89-12-077	248-31-045	AMD-E	89-15-057
248-27-055	AMD-E	89-15-057	248-31-045	AMD-E	89-22-091
248-27-055	AMD-E	89-22-091	248-31-045	AMD-P	89-22-107
248-27-055	AMD-P	89-22-107	248-31-050	REP-P	89-07-023
248-27-060	REP-P	89-07-023	248-31-050	REP	89-12-077
248-27-060	REP	89-12-077	248-31-055	NEW-P	89-07-023
248-27-065	NEW-P	89-07-023	248-31-055	NEW	89-12-077
248-27-065	NEW	89-12-077	248-31-055	AMD-E	89-15-057
248-27-070	REP-P	89-07-023	248-31-055	AMD-E	89-22-091
248-27-070	REP	89-12-077	248-31-055	AMD-P	89-22-107
248-27-077	NEW-P	89-07-023	248-31-060	REP-P	89-07-023
248-27-077	NEW	89-12-077	248-31-060	REP	89-12-077
248-27-080	REP-P	89-07-023	248-31-065	NEW-P	89-07-023
248-27-080	REP	89-12-077	248-31-065	NEW	89-12-077
248-27-085	NEW-P	89-07-023	248-31-070	REP-P	89-07-023
248-27-085	NEW	89-12-077	248-31-070	REP	89-12-077
248-27-090	REP-P	89-07-023	248-31-075	REP-P	89-07-023
248-27-090	REP	89-12-077	248-31-075	REP	89-12-077
248-27-095	NEW-P	89-07-023	248-31-077	NEW-P	89-07-023
248-27-095	NEW	89-12-077	248-31-077	NEW	89-12-077
248-27-100	REP-P	89-07-023	248-31-080	REP-P	89-07-023
248-27-100	REP	89-12-077	248-31-080	REP	89-12-077
248-27-105	NEW-P	89-07-023	248-31-085	NEW-P	89-07-023
248-27-105	NEW	89-12-077	248-31-085	NEW	89-12-077
248-27-115	NEW-P	89-07-023	248-31-090	REP-P	89-07-023
248-27-115	NEW	89-12-077	248-31-090	REP	89-12-077
248-27-120	REP-P	89-07-023	248-31-095	NEW-P	89-07-023
248-27-120	REP	89-12-077	248-31-095	NEW	89-12-077
248-27-125	NEW-P	89-07-023	248-31-100	REP-P	89-07-023
248-27-125	NEW	89-12-077	248-31-100	REP	89-12-077
248-27-135	NEW-P	89-07-023	248-31-105	NEW-P	89-07-023
248-27-135	NEW	89-12-077	248-31-105	NEW	89-12-077
248-27-145	NEW-P	89-07-023	248-31-110	REP-P	89-07-023
248-27-145	NEW	89-12-077	248-31-110	REP	89-12-077
248-27-155	NEW-P	89-07-023	248-31-115	NEW-P	89-07-023
248-27-155	NEW	89-12-077	248-31-115	NEW	89-12-077
248-27-165	NEW-P	89-07-023	248-31-120	REP-P	89-07-023
248-27-165	NEW	89-12-077	248-31-120	REP	89-12-077
248-27-175	NEW-P	89-07-023	248-31-125	NEW-P	89-07-023
248-27-175	NEW	89-12-077	248-31-125	NEW	89-12-077
248-27-185	NEW-P	89-07-023	248-31-130	REP-P	89-07-023
248-27-185	NEW	89-12-077	248-31-130	REP	89-12-077
248-29-020	AMD-E	89-14-095	248-31-135	NEW-P	89-07-023
248-29-020	AMD-E	89-22-091	248-31-135	NEW	89-12-077
248-29-020	AMD-P	89-22-107	248-31-140	REP-P	89-07-023
248-29-045	NEW-P	89-17-007	248-31-140	REP	89-12-077
248-29-045	NEW	89-21-038	248-31-150	REP-P	89-07-023
248-31	AMD-P	89-07-023	248-31-150	REP	89-12-077
248-31	AMD	89-12-077	248-31-155	NEW-P	89-07-023
248-31-001	REP-P	89-07-023	248-31-155	NEW	89-12-077
248-31-001	REP	89-12-077	248-31-160	REP-P	89-07-023
248-31-002	REP-P	89-07-023	248-31-160	REP	89-12-077
248-31-002	REP	89-12-077	248-31-165	NEW-P	89-07-023
248-31-005	NEW-P	89-07-023	248-31-165	NEW	89-12-077
248-31-005	NEW	89-12-077	248-31-175	NEW-P	89-07-023
248-31-010	REP-P	89-07-023	248-31-175	NEW	89-12-077
248-31-010	REP	89-12-077	248-31-185	NEW-P	89-07-023
248-31-015	NEW-P	89-07-023	248-31-185	NEW	89-12-077
248-31-015	NEW	89-12-077	248-33-040	AMD-P	89-14-097
248-31-020	REP-P	89-07-023	248-33-040	AMD-E	89-22-093
248-31-020	REP	89-12-077	248-33-040	AMD-E	89-23-091
248-31-025	NEW-P	89-07-023	248-33-040	AMD-P	89-23-102
248-31-025	NEW	89-12-077	248-33-060	REP-P	89-14-097
248-31-025	AMD-E	89-15-057	248-33-060	REP-E	89-22-093
248-31-025	AMD-E	89-22-091	248-33-060	REP-E	89-23-091
248-31-025	AMD-P	89-22-107	248-33-060	REP-P	89-23-102
248-31-030	REP-P	89-07-023	248-33-080	REP-P	89-14-097
248-31-030	REP	89-12-077	248-33-080	REP-E	89-22-093
248-31-035	NEW-P	89-07-023	248-33-080	REP-E	89-23-091

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
248-54-045	AMD-P	89-14-079	248-64-320	AMD	89-20-026
248-54-045	AMD	89-21-020	248-91-060	AMD-E	89-14-095
248-54-055	AMD-P	89-14-079	248-91-060	AMD-E	89-22-091
248-54-055	AMD	89-21-020	248-91-060	AMD-P	89-22-107
248-54-086	AMD-P	89-14-079	248-96	AMD-C	89-17-055
248-54-086	AMD	89-21-020	248-96-020	AMD-P	89-14-126
248-54-097	AMD-P	89-14-079	248-96-020	AMD	89-21-026
248-54-097	AMD	89-21-020	248-96-040	AMD-P	89-14-126
248-54-098	NEW-P	89-14-079	248-96-040	AMD	89-21-026
248-54-098	NEW	89-21-020	248-96-046	AMD-P	89-14-126
248-54-165	AMD-P	89-14-079	248-96-046	AMD	89-21-026
248-54-165	AMD	89-21-020	248-96-060	AMD-P	89-14-126
248-54-175	AMD-P	89-14-079	248-96-060	AMD	89-21-026
248-54-175	AMD	89-21-020	248-96-110	AMD-P	89-14-126
248-54-185	AMD-P	89-14-079	248-96-110	AMD	89-21-026
248-54-185	AMD	89-21-020	248-96-120	NEW-P	89-14-126
248-54-187	NEW-P	89-14-079	248-96-120	NEW	89-21-026
248-54-187	NEW	89-21-020	248-96-125	NEW-P	89-14-126
248-54-196	AMD-P	89-14-079	248-96-125	NEW	89-21-026
248-54-196	AMD	89-21-020	248-97-130	AMD-E	89-14-097
248-54-201	AMD-P	89-14-079	248-97-130	AMD-E	89-22-093
248-54-201	AMD	89-21-020	248-97-135	NEW-E	89-14-097
248-54-255	REP-P	89-14-079	248-97-135	NEW-E	89-22-093
248-54-255	REP	89-21-020	248-100-011	AMD-P	89-04-055
248-54-265	AMD-P	89-14-079	248-100-011	AMD	89-07-095
248-54-265	AMD	89-21-020	248-100-016	AMD-P	89-21-016
248-54-285	AMD-P	89-14-079	248-100-206	AMD-P	89-04-055
248-54-285	AMD	89-21-020	248-100-206	AMD	89-07-095
248-55-220	AMD-E	89-14-095	248-100-207	AMD-P	89-10-021
248-55-220	AMD-E	89-22-091	248-100-207	AMD-E	89-10-022
248-55-220	AMD-P	89-22-107	248-100-207	AMD	89-14-003
248-55-230	REP-E	89-14-095	248-100-207	AMD-E	89-16-026
248-55-230	REP-E	89-22-091	248-100-207	AMD-P	89-16-059
248-55-230	REP-P	89-22-107	248-100-207	AMD-C	89-17-133
248-55-235	NEW-E	89-14-095	248-100-207	AMD	89-20-006
248-55-235	NEW-E	89-22-091	248-105-010	AMD-P	89-13-079
248-55-235	NEW-P	89-22-107	248-105-010	AMD-P	89-20-019
248-55-240	AMD-E	89-14-095	248-105-010	AMD-W	89-22-039
248-55-240	AMD-E	89-22-091	248-105-020	AMD-P	89-13-079
248-55-240	AMD-P	89-22-107	248-105-020	AMD-P	89-20-019
248-55-250	AMD-E	89-14-095	248-105-020	AMD-W	89-22-039
248-55-250	AMD-E	89-14-095	248-105-020	AMD-P	89-13-079
248-55-250	REP-E	89-22-091	248-105-030	AMD-P	89-13-079
248-55-250	REP-P	89-22-107	248-105-030	AMD-P	89-20-019
248-55-260	REP-E	89-14-095	248-105-030	AMD-W	89-22-039
248-55-260	REP-E	89-22-091	248-105-040	REP-P	89-13-079
248-55-260	REP-P	89-22-107	248-105-040	REP-P	89-20-019
248-56-500	AMD-P	89-11-055	248-105-040	REP-P	89-14-091
248-56-500	AMD	89-16-065	248-105-040	REP-P	89-20-019
248-56-510	AMD-P	89-11-055	248-105-050	REP-P	89-13-079
248-57-500	AMD-P	89-11-055	248-105-050	REP-W	89-22-039
248-57-500	AMD	89-16-065	248-105-060	REP-P	89-13-079
248-58-085	NEW-E	89-14-097	248-105-060	REP-P	89-20-019
248-58-085	NEW-E	89-22-093	248-105-060	REP-W	89-22-039
248-59-030	AMD-E	89-14-095	248-105-070	AMD-P	89-13-079
248-59-030	AMD-E	89-22-091	248-105-070	AMD-P	89-20-019
248-59-030	AMD-P	89-22-107	248-105-070	AMD-W	89-22-039
248-59-040	REP-E	89-14-095	248-105-080	AMD-P	89-13-079
248-59-040	REP-E	89-22-091	248-105-080	AMD-P	89-20-019
248-59-040	REP-P	89-22-107	248-105-080	AMD-W	89-22-039
248-59-050	REP-E	89-14-095	248-105-090	AMD-P	89-13-079
248-59-050	REP-E	89-22-091	248-105-090	AMD-P	89-20-019
248-59-050	REP-P	89-22-107	248-105-090	AMD-W	89-22-039
248-59-060	REP-E	89-14-095	248-105-100	AMD-P	89-13-079
248-59-060	REP-E	89-22-091	248-105-100	AMD-P	89-20-019
248-59-060	REP-P	89-22-107	248-105-100	AMD-W	89-22-039
248-59-070	REP-E	89-14-095	248-106-001	NEW-E	89-20-005
248-59-070	REP-E	89-22-091	248-106-001	NEW-P	89-21-015
248-59-070	REP-P	89-22-107	248-106-010	NEW-E	89-20-005
248-59-080	REP-E	89-14-095	248-106-010	NEW-P	89-21-015
248-59-080	REP-E	89-22-091	248-106-020	NEW-E	89-20-005
248-59-080	REP-P	89-22-107	248-106-020	NEW-P	89-21-015
248-63-025	AMD-E	89-22-093	248-124-990	REP-P	89-06-047
248-64-240	AMD-P	89-16-104	248-124-990	REP	89-10-023
248-64-240	AMD-C	89-17-132	248-124-99001	REP-P	89-06-047
248-64-240	AMD	89-20-026	248-124-99001	REP	89-10-023
248-64-320	AMD-P	89-16-104	248-124-99002	REP-P	89-06-047
248-64-320	AMD-C	89-17-132	248-124-99002	REP	89-10-023

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
248-144-171	NEW	89-11-058	250-68-010	NEW-P	89-16-072
248-144-180	REP-P	89-08-098	250-68-010	NEW	89-20-014
248-144-180	REP	89-11-058	250-68-020	NEW-P	89-16-072
248-144-181	NEW-P	89-08-098	250-68-020	NEW	89-20-014
248-144-181	NEW	89-11-058	250-68-030	NEW-P	89-16-072
248-144-190	REP-P	89-08-098	250-68-030	NEW	89-20-014
248-144-190	REP	89-11-058	250-68-035	NEW-P	89-16-072
248-144-191	NEW-P	89-08-098	250-68-035	NEW	89-20-014
248-144-191	NEW	89-11-058	250-68-040	NEW-P	89-16-072
248-144-200	REP-P	89-08-098	250-68-040	NEW	89-20-014
248-144-200	REP	89-11-058	250-68-050	NEW-P	89-16-072
248-144-201	NEW-P	89-08-098	250-68-050	NEW	89-20-014
248-144-201	NEW	89-11-058	250-68-060	NEW-P	89-16-072
248-144-210	REP-P	89-08-098	250-68-060	NEW	89-20-014
248-144-210	REP	89-11-058	250-68-070	NEW-P	89-16-072
248-144-211	NEW-P	89-08-098	250-68-070	NEW	89-20-014
248-144-211	NEW	89-11-058	251-01-077	NEW-P	89-06-044
248-144-220	REP-P	89-08-098	251-01-077	NEW-P	89-06-045
248-144-220	REP	89-11-058	251-01-077	NEW-W	89-09-060
248-144-230	REP-P	89-08-098	251-01-077	NEW-C	89-09-061
248-144-230	REP	89-11-058	251-01-077	NEW	89-13-074
248-144-240	REP-P	89-08-098	251-01-078	NEW-P	89-06-044
248-144-240	REP	89-11-058	251-01-078	NEW-P	89-06-045
248-180-010	NEW-P	89-20-032	251-01-078	NEW-W	89-09-060
248-180-020	NEW-P	89-20-032	251-01-078	NEW-C	89-09-061
248-320-340	NEW-E	89-14-096	251-01-415	AMD-P	89-06-044
248-320-340	NEW-E	89-22-092	251-01-415	AMD-P	89-06-045
248-320-340	NEW-P	89-22-103	251-01-415	AMD-W	89-09-060
248-320-350	NEW-E	89-14-096	251-01-415	AMD-C	89-09-061
248-320-350	NEW-E	89-22-092	251-01-415	AMD-P	89-09-063
248-320-350	NEW-P	89-22-103	251-01-415	AMD	89-13-074
248-320-360	NEW-E	89-14-096	251-01-415	AMD-E	89-19-017
248-320-360	NEW-E	89-22-092	251-01-415	AMD-P	89-22-017
248-320-360	NEW-P	89-22-103	251-01-416	NEW-P	89-09-063
248-320-370	NEW-E	89-14-096	251-01-417	NEW-P	89-09-063
248-320-370	NEW-E	89-22-092	251-04-040	AMD-P	89-06-044
248-320-370	NEW-P	89-22-103	251-04-040	AMD-P	89-06-045
248-320-400	NEW-E	89-14-096	251-04-040	AMD-W	89-09-060
248-320-400	NEW-E	89-22-092	251-04-040	AMD-C	89-09-061
248-320-400	NEW-P	89-22-103	251-04-040	AMD-P	89-09-063
248-320-410	NEW-E	89-14-096	251-04-040	AMD	89-13-074
248-320-410	NEW-E	89-22-092	251-04-040	AMD-E	89-19-017
248-320-410	NEW-P	89-22-103	251-04-040	AMD-P	89-22-017
248-320-500	NEW-E	89-14-096	251-04-105	RE-AD-E	89-17-009
248-320-500	NEW-E	89-22-092	251-04-105	RE-AD-P	89-17-120
248-320-500	NEW-P	89-22-103	251-04-105	RE-AD	89-22-020
248-554-030	AMD-E	89-14-098	251-04-110	RE-AD-E	89-17-009
248-554-030	AMD-P	89-22-076	251-04-110	RE-AD-P	89-17-120
248-554-030	AMD-E	89-22-085	251-04-110	RE-AD	89-22-020
248-554-030	AMD-C	89-23-058	251-06-070	AMD-P	89-22-121
250-20-001	AMD-P	89-23-129	251-07-100	NEW-P	89-06-044
250-20-001	AMD-C	89-24-064	251-07-100	NEW-P	89-06-045
250-20-011	AMD-P	89-23-129	251-07-100	NEW-W	89-09-060
250-20-011	AMD-C	89-24-064	251-07-100	NEW-C	89-09-061
250-20-015	AMD-P	89-23-129	251-07-100	NEW	89-13-074
250-20-015	AMD-C	89-24-064	251-08-110	AMD-C	89-05-043
250-20-021	AMD-P	89-23-129	251-08-110	AMD	89-08-003
250-20-021	AMD-C	89-24-064	251-08-130	AMD-P	89-22-122
250-20-031	AMD-P	89-23-129	251-09-010	AMD-P	89-22-122
250-20-031	AMD-C	89-24-064	251-09-040	AMD-P	89-22-122
250-20-037	NEW-P	89-23-129	251-09-085	NEW-P	89-22-122
250-20-037	AMD-C	89-24-064	251-09-090	AMD-P	89-22-122
250-20-041	AMD-P	89-23-129	251-09-092	NEW-P	89-22-122
250-20-041	AMD-C	89-24-064	251-09-094	NEW-P	89-22-122
250-20-051	AMD-P	89-23-129	251-10	AMD	89-08-003
250-20-051	AMD-C	89-24-064	251-10-070	NEW-C	89-05-043
250-20-071	AMD-P	89-23-129	251-10-070	NEW	89-08-003
250-20-071	AMD-C	89-24-064	251-10-080	NEW-C	89-05-043
250-20-071	AMD-P	89-04-048	251-10-080	NEW	89-08-003
250-44-050	AMD-P	89-04-048	251-10-090	NEW-C	89-05-043
250-44-050	AMD	89-08-056	251-10-090	NEW	89-08-003
250-44-050	AMD-E	89-08-057	251-10-090	NEW	89-08-003
250-44-110	AMD-P	89-04-048	251-11-100	AMD-C	89-05-043
250-44-110	AMD	89-08-056	251-11-100	AMD	89-08-003
250-44-110	AMD-E	89-08-057	251-12-073	RE-AD-E	89-17-009
250-44-130	AMD-P	89-04-048	251-12-073	RE-AD-P	89-17-120
250-44-130	AMD	89-08-056	251-12-073	RE-AD	89-22-020
250-44-130	AMD-E	89-08-057	251-12-075	AMD-C	89-05-043

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
251-19-030	REP-C	89-09-061	260-34-020	AMD-W	89-07-027
251-19-030	REP	89-13-074	260-34-020	AMD-P	89-08-090
251-19-040	REP-P	89-06-044	260-34-020	AMD	89-13-006
251-19-040	REP-P	89-06-045	260-34-030	AMD-P	89-04-060
251-19-040	REP-W	89-09-060	260-34-030	AMD-W	89-07-027
251-19-040	REP-C	89-09-061	260-34-030	AMD-P	89-08-090
251-19-040	REP	89-13-074	260-34-030	AMD	89-13-006
251-19-100	AMD-P	89-09-063	260-34-040	AMD-P	89-04-060
251-19-100	AMD	89-13-075	260-34-040	AMD-W	89-07-027
251-19-105	NEW-P	89-09-063	260-34-040	AMD-P	89-08-090
251-19-105	NEW	89-13-075	260-34-040	AMD	89-13-006
251-19-120	AMD-P	89-06-044	260-34-050	AMD-P	89-04-060
251-19-120	AMD-P	89-06-045	260-34-050	AMD-W	89-07-027
251-19-120	AMD-C	89-09-061	260-34-050	AMD-P	89-08-090
251-19-120	AMD-P	89-09-063	260-34-050	AMD	89-13-006
251-19-120	AMD	89-13-074	260-34-060	AMD-P	89-04-060
251-19-120	AMD-E	89-19-017	260-34-060	AMD-W	89-07-027
251-19-120	AMD-P	89-22-017	260-34-060	AMD-P	89-08-090
251-19-122	NEW-P	89-06-044	260-34-060	AMD	89-13-006
251-19-122	NEW-P	89-06-045	260-34-070	AMD-P	89-04-060
251-19-122	NEW-C	89-09-061	260-34-070	AMD-W	89-07-027
251-19-122	NEW	89-13-074	260-34-070	AMD-P	89-08-090
251-22-170	AMD-P	89-17-118	260-34-070	AMD	89-13-006
251-22-170	AMD	89-22-018	260-34-080	AMD-P	89-04-060
251-22-250	NEW-E	89-12-060	260-34-080	AMD-W	89-07-027
251-22-250	NEW-P	89-13-073	260-34-080	AMD-P	89-08-090
251-22-250	NEW-P	89-17-119	260-34-080	AMD	89-13-006
251-22-250	NEW-E	89-18-046	260-34-090	AMD-P	89-04-060
251-22-250	NEW	89-22-019	260-34-090	AMD-W	89-07-027
251-22-260	NEW-E	89-12-060	260-34-090	AMD-P	89-08-090
251-22-260	NEW-P	89-13-073	260-34-090	AMD	89-13-006
251-22-260	NEW-P	89-17-119	260-34-100	AMD-P	89-04-060
251-22-260	NEW-E	89-18-046	260-34-100	AMD-W	89-07-027
251-22-260	NEW	89-22-019	260-34-100	AMD-P	89-08-090
251-22-270	NEW-E	89-12-060	260-34-100	AMD	89-13-006
251-22-270	NEW-P	89-13-073	260-34-180	AMD-P	89-04-060
251-22-270	NEW-P	89-17-119	260-34-180	AMD-W	89-07-027
251-22-270	NEW-E	89-18-046	260-34-180	AMD-P	89-08-090
251-22-270	NEW	89-22-019	260-34-180	AMD	89-13-006
251-22-280	NEW-E	89-12-060	260-34-190	NEW-P	89-04-060
251-22-280	NEW-P	89-13-073	260-34-190	NEW-W	89-07-027
251-22-280	NEW-P	89-17-119	260-34-190	NEW-P	89-08-090
251-22-280	NEW-E	89-18-046	260-34-190	NEW	89-13-006
251-22-280	NEW	89-22-019	260-36-020	AMD-E	89-04-029
251-22-290	NEW-E	89-12-060	260-36-020	AMD-P	89-08-070
251-22-290	NEW-P	89-13-073	260-36-020	AMD	89-13-007
251-22-290	NEW-P	89-17-119	260-36-030	AMD-E	89-04-029
251-22-290	NEW-E	89-18-046	260-36-030	AMD-P	89-08-070
251-22-290	NEW	89-22-019	260-36-030	AMD	89-13-007
251-22-300	NEW-E	89-12-060	260-36-040	AMD-E	89-04-029
251-22-300	NEW-P	89-13-073	260-36-040	AMD-P	89-08-070
251-22-300	NEW-P	89-17-119	260-36-040	AMD	89-13-007
251-22-300	NEW-E	89-18-046	260-48-327	NEW-P	89-09-064
251-22-300	NEW	89-22-019	260-48-327	NEW	89-13-008
251-23-020	AMD-P	89-22-123	260-48-327	AMD-P	89-24-068
251-24-030	AMD-C	89-05-043	260-48-329	REP-P	89-09-064
251-24-030	AMD-P	89-06-045	260-48-329	REP	89-13-008
251-24-030	AMD	89-08-003	260-70-010	AMD	89-04-026
251-24-030	AMD-W	89-09-060	260-70-010	AMD-P	89-09-065
251-24-030	AMD-P	89-09-063	260-70-090	AMD	89-04-026
251-24-030	AMD	89-13-075	260-70-100	AMD-P	89-09-065
251-24-200	NEW-P	89-06-045	260-88-010	AMD-P	89-10-078
251-24-200	NEW-W	89-09-060	261-40-150	AMD	89-04-030
251-24-200	NEW-P	89-09-063	261-40-170	AMD	89-04-030
251-24-200	NEW	89-13-075	275-16-030	AMD-P	89-17-025
259-04-010	NEW	89-07-003	275-16-030	AMD-E	89-17-028
259-04-020	NEW	89-07-003	275-16-030	AMD-C	89-21-023
259-04-030	NEW	89-07-003	275-16-030	AMD	89-22-128
259-04-040	NEW	89-07-003	275-16-055	AMD-E	89-14-098
259-04-050	NEW	89-07-003	275-16-055	AMD-P	89-22-079
259-04-060	NEW	89-07-003	275-16-055	AMD-E	89-22-088
259-04-070	NEW	89-07-003	275-16-055	AMD-C	89-23-061
260-34-010	AMD-P	89-04-060	275-19-020	AMD	89-06-011
260-34-010	AMD-W	89-07-027	275-19-030	AMD	89-06-011
260-34-010	AMD-P	89-08-090	275-19-040	AMD	89-06-011
260-34-010	AMD	89-13-006	275-19-050	AMD	89-06-011
260-34-020	AMD-P	89-04-060	275-19-050	AMD-E	89-14-098

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
275-56-017	NEW-P	89-16-105	275-56-115	AMD-E	89-20-030
275-56-017	NEW-E	89-20-030	275-56-115	AMD-S	89-23-108
275-56-017	NEW-S	89-23-108	275-56-120	REP-P	89-16-105
275-56-020	AMD-P	89-16-105	275-56-120	REP-E	89-20-030
275-56-020	AMD-E	89-20-030	275-56-120	REP-S	89-23-108
275-56-020	AMD-S	89-23-108	275-56-125	REP-P	89-16-105
275-56-025	AMD-P	89-16-105	275-56-125	REP-E	89-20-030
275-56-025	AMD-E	89-20-030	275-56-125	REP-S	89-23-108
275-56-025	AMD-S	89-23-108	275-56-130	REP-P	89-16-105
275-56-030	REP-P	89-16-105	275-56-130	REP-E	89-20-030
275-56-030	REP-E	89-20-030	275-56-130	REP-S	89-23-108
275-56-030	REP-S	89-23-108	275-56-135	AMD-P	89-16-105
275-56-035	AMD-P	89-16-105	275-56-135	AMD-E	89-20-030
275-56-035	AMD-E	89-20-030	275-56-135	AMD-S	89-23-108
275-56-035	AMD-S	89-23-108	275-56-140	REP-P	89-16-105
275-56-040	AMD-P	89-16-105	275-56-140	REP-E	89-20-030
275-56-040	AMD-E	89-20-030	275-56-140	REP-S	89-23-108
275-56-040	AMD-S	89-23-108	275-56-145	REP-P	89-16-105
275-56-042	NEW-P	89-16-105	275-56-145	REP-E	89-20-030
275-56-042	NEW-E	89-20-030	275-56-145	REP-S	89-23-108
275-56-042	NEW-S	89-23-108	275-56-150	AMD-P	89-16-105
275-56-043	NEW-P	89-16-105	275-56-150	AMD-E	89-20-030
275-56-043	NEW-E	89-20-030	275-56-150	AMD-S	89-23-108
275-56-043	NEW-S	89-23-108	275-56-155	REP-P	89-16-105
275-56-050	AMD-P	89-16-105	275-56-155	REP-E	89-20-030
275-56-050	AMD-E	89-20-030	275-56-155	REP-S	89-23-108
275-56-050	AMD-S	89-23-108	275-56-160	REP-P	89-16-105
275-56-055	AMD-P	89-16-105	275-56-160	REP-E	89-20-030
275-56-055	AMD-E	89-20-030	275-56-160	REP-S	89-23-108
275-56-055	AMD-S	89-23-108	275-56-165	AMD-P	89-16-105
275-56-060	AMD-P	89-16-105	275-56-165	REP-E	89-20-030
275-56-060	AMD-E	89-20-030	275-56-165	REP-S	89-23-108
275-56-060	AMD-S	89-23-108	275-56-170	AMD-P	89-16-105
275-56-065	AMD-P	89-16-105	275-56-170	AMD-E	89-20-030
275-56-065	AMD-E	89-20-030	275-56-170	AMD-S	89-23-108
275-56-065	AMD-S	89-23-108	275-56-175	AMD-P	89-16-105
275-56-070	AMD-P	89-16-105	275-56-175	AMD-E	89-20-030
275-56-070	AMD-E	89-20-030	275-56-175	AMD-S	89-23-108
275-56-070	AMD-S	89-23-108	275-56-180	AMD-P	89-16-105
275-56-075	AMD-P	89-16-105	275-56-180	AMD-E	89-20-030
275-56-075	AMD-E	89-20-030	275-56-180	AMD-S	89-23-108
275-56-075	AMD-S	89-23-108	275-56-185	AMD-P	89-16-105
275-56-080	AMD-P	89-16-105	275-56-185	AMD-E	89-20-030
275-56-080	AMD-E	89-20-030	275-56-185	AMD-S	89-23-108
275-56-080	AMD-S	89-23-108	275-56-190	REP-P	89-16-105
275-56-085	AMD-P	89-16-105	275-56-190	REP-E	89-20-030
275-56-085	AMD-E	89-20-030	275-56-190	REP-S	89-23-108
275-56-085	AMD-S	89-23-108	275-56-195	AMD-E	89-20-030
275-56-087	NEW-P	89-16-105	275-56-195	AMD-S	89-23-108
275-56-087	NEW-E	89-20-030	275-56-200	AMD-P	89-16-105
275-56-088	NEW-S	89-23-108	275-56-200	AMD-E	89-20-030
275-56-088	NEW-P	89-16-105	275-56-200	AMD-S	89-23-108
275-56-088	NEW-E	89-20-030	275-56-205	AMD-P	89-16-105
275-56-089	NEW-S	89-23-108	275-56-205	AMD-E	89-20-030
275-56-089	NEW-P	89-16-105	275-56-205	AMD-S	89-23-108
275-56-089	NEW-E	89-20-030	275-56-210	AMD-P	89-16-105
275-56-089	NEW-S	89-23-108	275-56-210	AMD-E	89-20-030
275-56-090	AMD-P	89-16-105	275-56-210	AMD-S	89-23-108
275-56-090	AMD-E	89-20-030	275-56-215	AMD-P	89-16-105
275-56-090	AMD-S	89-23-108	275-56-215	AMD-E	89-20-030
275-56-095	AMD-E	89-14-098	275-56-215	AMD-S	89-23-108
275-56-095	AMD-P	89-16-105	275-56-220	AMD-P	89-16-105
275-56-095	AMD-E	89-20-030	275-56-220	AMD-E	89-20-030
275-56-095	AMD-P	89-22-079	275-56-220	AMD-S	89-23-108
275-56-095	AMD-E	89-22-088	275-56-225	AMD-P	89-16-105
275-56-095	AMD-C	89-23-061	275-56-225	AMD-E	89-20-030
275-56-095	AMD-S	89-23-108	275-56-225	AMD-S	89-23-108
275-56-100	AMD-P	89-16-105	275-56-230	AMD-P	89-16-105
275-56-100	AMD-E	89-20-030	275-56-230	AMD-E	89-20-030
275-56-100	AMD-S	89-23-108	275-56-230	AMD-S	89-23-108
275-56-105	AMD-P	89-16-105	275-56-235	AMD-P	89-16-105
275-56-105	AMD-E	89-20-030	275-56-235	AMD-E	89-20-030
275-56-105	AMD-S	89-23-108	275-56-235	AMD-S	89-23-108
275-56-110	AMD-P	89-16-105	275-56-240	AMD-P	89-16-105
275-56-110	AMD-E	89-20-030	275-56-240	AMD-E	89-20-030
275-56-110	AMD-S	89-23-108	275-56-240	AMD-S	89-23-108
275-56-115	AMD-P	89-16-105	275-56-245	AMD-P	89-16-105

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
275-56-375	REP-P	89-16-105	275-80-920	REP-P	89-11-029
275-56-375	REP-E	89-20-030	275-80-925	REP-P	89-11-029
275-56-375	REP-S	89-23-108	275-80-930	REP-P	89-11-029
275-56-380	REP-P	89-16-105	275-80-935	REP-P	89-11-029
275-56-380	REP-E	89-20-030	275-80-940	REP-P	89-11-029
275-56-380	REP-S	89-23-108	275-80-995	REP-P	89-11-029
275-56-385	AMD-P	89-16-105	284-15-050	AMD	89-03-060
275-56-385	AMD-E	89-20-030	284-17-200	AMD-P	89-16-099
275-56-385	AMD-S	89-23-108	284-17-200	AMD	89-19-037
275-56-390	REP-P	89-16-105	284-17-210	AMD-P	89-16-099
275-56-390	REP-E	89-20-030	284-17-210	AMD	89-19-037
275-56-390	REP-S	89-23-108	284-17-220	AMD-P	89-16-099
275-56-395	REP-P	89-16-105	284-17-220	AMD	89-19-037
275-56-395	REP-E	89-20-030	284-17-230	AMD-P	89-16-099
275-56-395	REP-S	89-23-108	284-17-230	AMD	89-19-037
275-56-400	AMD-P	89-16-105	284-17-250	AMD-P	89-16-099
275-56-400	AMD-E	89-20-030	284-17-250	AMD	89-19-037
275-56-400	AMD-S	89-23-108	284-17-260	AMD-P	89-16-099
275-56-405	REP-P	89-16-105	284-17-260	AMD	89-19-037
275-56-405	REP-E	89-20-030	284-17-270	AMD-P	89-16-099
275-56-405	REP-S	89-23-108	284-17-270	AMD	89-19-037
275-56-410	REP-P	89-16-105	284-17-275	AMD-P	89-16-099
275-56-410	REP-E	89-20-030	284-17-275	AMD	89-19-037
275-56-410	REP-S	89-23-108	284-17-280	AMD-P	89-16-099
275-56-415	REP-P	89-16-105	284-17-280	AMD	89-19-037
275-56-415	REP-E	89-20-030	284-17-290	AMD-P	89-16-099
275-56-415	REP-S	89-23-108	284-17-290	AMD	89-19-037
275-56-420	REP-P	89-16-105	284-17-310	AMD-P	89-16-099
275-56-420	REP-E	89-20-030	284-17-310	AMD	89-19-037
275-56-420	REP-S	89-23-108	284-17-320	AMD-P	89-16-099
275-56-425	AMD-P	89-16-105	284-17-320	AMD	89-19-037
275-56-425	AMD-E	89-20-030	284-17-505	AMD-P	89-11-077
275-56-425	AMD-S	89-23-108	284-17-505	AMD	89-14-045
275-56-430	REP-P	89-16-105	284-17-520	AMD-E	89-11-070
275-56-430	REP-E	89-20-030	284-17-520	AMD-P	89-11-077
275-56-430	REP-S	89-23-108	284-17-520	AMD	89-14-045
275-56-435	REP-P	89-16-105	284-17-535	AMD-P	89-11-077
275-56-435	REP-E	89-20-030	284-17-535	AMD	89-14-045
275-56-435	REP-S	89-23-108	284-17-535	AMD-P	89-16-098
275-56-440	REP-P	89-16-105	284-17-535	AMD	89-19-036
275-56-440	REP-E	89-20-030	284-17-537	AMD-P	89-11-077
275-56-440	REP-S	89-23-108	284-17-537	AMD	89-14-045
275-56-445	AMD-P	89-16-105	284-17-540	AMD-P	89-11-077
275-56-445	AMD-E	89-20-030	284-17-540	AMD	89-14-045
275-56-445	AMD-S	89-23-108	284-17-540	AMD-P	89-16-098
275-56-450	REP-P	89-16-105	284-17-540	AMD-P	89-19-036
275-56-450	REP-E	89-20-030	284-17-550	AMD-P	89-11-077
275-56-450	REP-S	89-23-108	284-17-550	AMD	89-14-045
275-56-465	NEW-P	89-16-105	284-17-570	AMD-E	89-11-070
275-56-465	NEW-E	89-20-030	284-17-570	AMD-P	89-11-077
275-56-465	NEW-S	89-23-108	284-17-570	AMD	89-14-045
275-56-475	NEW-S	89-23-108	284-23-550	AMD	89-05-017
275-56-485	NEW-S	89-23-108	284-23-550	AMD-P	89-05-050
275-56-495	NEW-S	89-23-108	284-23-550	AMD-C	89-07-073
275-56-505	NEW-S	89-23-108	284-23-550	AMD	89-07-086
275-56-515	NEW-S	89-23-108	284-23-550	AMD-E	89-08-038
275-80-805	REP-P	89-11-029	284-23-550	AMD-P	89-17-099
275-80-810	REP-P	89-11-029	284-23-550	AMD-C	89-20-028
275-80-815	REP-P	89-11-029	284-23-550	AMD	89-21-004
275-80-840	REP-P	89-11-029	284-55-035	AMD-P	89-09-050
275-80-842	REP-P	89-11-029	284-55-035	AMD	89-11-096
275-80-844	REP-P	89-11-029	284-55-050	AMD-P	89-09-050
275-80-846	REP-P	89-11-029	284-55-050	AMD	89-11-096
275-80-848	REP-P	89-11-029	284-55-060	AMD-P	89-09-050
275-80-852	REP-P	89-11-029	284-55-060	AMD	89-11-096
275-80-854	REP-P	89-11-029	284-55-070	AMD-P	89-09-050
275-80-860	REP-P	89-11-029	284-55-070	AMD	89-11-096
275-80-870	REP-P	89-11-029	284-55-115	AMD-P	89-09-050
275-80-872	REP-P	89-11-029	284-55-115	AMD	89-11-096
275-80-876	REP-P	89-11-029	284-55-130	REP-P	89-17-060
275-80-878	REP-P	89-11-029	284-55-130	REP	89-20-017
275-80-890	REP-P	89-11-029	284-55-150	AMD-P	89-09-050
275-80-895	REP-P	89-11-029	284-55-150	AMD	89-11-096
275-80-900	REP-P	89-11-029	284-55-160	AMD-P	89-09-050
275-80-905	REP-P	89-11-029	284-55-160	AMD	89-11-096
275-80-910	REP-P	89-11-029	284-55-170	REP-P	89-09-050
275-80-915	REP-P	89-11-029	284-55-170	REP	89-11-096
				296-17-514	REP
				296-17-514	REP

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
296-17-515	REP-P	89-20-063	296-17-708	AMD	89-24-051
296-17-515	REP	89-24-051	296-17-715	AMD-P	89-20-063
296-17-518	REP-P	89-20-063	296-17-715	AMD	89-24-051
296-17-518	REP	89-24-051	296-17-724	AMD-P	89-20-063
296-17-519	AMD-P	89-20-063	296-17-724	AMD	89-24-051
296-17-519	AMD	89-24-051	296-17-777	AMD-P	89-20-063
296-17-520	REP-P	89-20-063	296-17-777	AMD	89-24-051
296-17-520	REP	89-24-051	296-17-731	REP-E	89-11-074
296-17-52002	AMD-P	89-20-063	296-17-731	REP-P	89-11-088
296-17-52002	AMD	89-24-051	296-17-731	REP	89-16-001
296-17-521	AMD-P	89-20-063	296-17-73101	REP-E	89-11-074
296-17-521	AMD	89-24-051	296-17-73101	REP-P	89-11-088
296-17-52106	AMD-P	89-20-063	296-17-73101	REP	89-16-001
296-17-52106	AMD	89-24-051	296-17-73102	REP-E	89-11-074
296-17-52108	AMD-P	89-20-063	296-17-73102	REP-P	89-11-088
296-17-52108	AMD	89-24-051	296-17-73102	REP	89-16-001
296-17-52109	AMD-P	89-20-063	296-17-73103	REP-E	89-11-074
296-17-52109	AMD	89-24-051	296-17-73103	REP-P	89-11-088
296-17-52110	NEW-P	89-20-063	296-17-73103	REP	89-16-001
296-17-52110	NEW	89-24-051	296-17-73104	REP-E	89-11-074
296-17-52111	NEW-P	89-20-063	296-17-73104	REP-P	89-11-088
296-17-52111	NEW	89-24-051	296-17-73104	REP	89-16-001
296-17-523	AMD-P	89-20-063	296-17-73105	NEW-E	89-11-074
296-17-523	AMD	89-24-051	296-17-73105	NEW-P	89-11-088
296-17-525	AMD-P	89-20-063	296-17-73105	NEW	89-16-001
296-17-525	AMD	89-24-051	296-17-73106	NEW-E	89-11-074
296-17-52701	AMD-P	89-20-063	296-17-73106	NEW-P	89-11-088
296-17-52701	AMD	89-24-051	296-17-73106	NEW	89-16-001
296-17-532	AMD-P	89-20-063	296-17-73107	NEW-E	89-11-074
296-17-532	AMD	89-24-051	296-17-73107	NEW-P	89-11-088
296-17-534	AMD-P	89-20-062	296-17-73107	NEW	89-16-001
296-17-534	AMD-C	89-24-052	296-17-73108	NEW-E	89-11-074
296-17-536	AMD-P	89-20-063	296-17-73108	NEW-P	89-11-088
296-17-536	AMD	89-24-051	296-17-73108	NEW	89-16-001
296-17-555	AMD-P	89-20-063	296-17-773	AMD-E	89-11-074
296-17-555	AMD	89-24-051	296-17-773	AMD-P	89-11-088
296-17-567	AMD-P	89-20-063	296-17-773	AMD	89-16-001
296-17-567	AMD	89-24-051	296-17-855	AMD-P	89-20-063
296-17-576	REP-P	89-20-063	296-17-855	AMD	89-24-051
296-17-576	REP	89-24-051	296-17-86501	AMD-P	89-20-063
296-17-57601	REP-P	89-20-063	296-17-86501	AMD	89-24-051
296-17-57601	REP	89-24-051	296-17-870	AMD-P	89-20-063
296-17-57603	NEW-P	89-20-063	296-17-870	AMD	89-24-051
296-17-57603	NEW	89-24-051	296-17-873	AMD-P	89-20-063
296-17-580	AMD-P	89-20-063	296-17-873	AMD	89-24-051
296-17-580	AMD	89-24-051	296-17-87301	AMD-P	89-20-063
296-17-587	AMD-P	89-20-063	296-17-87301	AMD	89-24-051
296-17-587	AMD	89-24-051	296-17-87305	AMD-P	89-20-063
296-17-59201	NEW-P	89-20-063	296-17-87305	AMD	89-24-051
296-17-59201	NEW	89-24-051	296-17-875	AMD-P	89-20-063
296-17-626	AMD-P	89-20-063	296-17-875	AMD	89-24-051
296-17-626	AMD	89-24-051	296-17-880	AMD-P	89-20-063
296-17-646	AMD-P	89-20-063	296-17-880	AMD	89-24-051
296-17-646	AMD	89-24-051	296-17-885	AMD-E	89-11-074
296-17-64903	AMD-P	89-20-063	296-17-885	AMD-P	89-11-088
296-17-64903	AMD	89-24-051	296-17-885	AMD	89-16-001
296-17-64904	AMD-P	89-20-063	296-17-885	AMD-P	89-20-063
296-17-64904	AMD	89-24-051	296-17-885	AMD	89-24-051
296-17-654	AMD-P	89-20-063	296-17-890	AMD-P	89-20-063
296-17-654	AMD	89-24-051	296-17-890	AMD	89-24-051
296-17-65801	NEW-P	89-20-063	296-17-895	AMD-E	89-11-074
296-17-65801	NEW	89-24-051	296-17-895	AMD-P	89-11-088
296-17-662	REP-P	89-20-063	296-17-895	AMD	89-16-001
296-17-662	REP	89-24-051	296-17-895	AMD-P	89-20-063
296-17-663	AMD-P	89-20-063	296-17-895	AMD	89-24-051
296-17-663	AMD	89-24-051	296-17-910	AMD-P	89-13-077
296-17-677	AMD-P	89-20-063	296-17-910	AMD-E	89-16-025
296-17-677	AMD	89-24-051	296-17-910	AMD	89-18-051
296-17-682	AMD-P	89-20-063	296-17-919	AMD-P	89-20-063
296-17-682	AMD	89-24-051	296-17-919	AMD	89-24-051
296-17-68601	NEW-P	89-20-063	296-17-919	AMD	89-24-051
296-17-68601	NEW	89-24-051	296-17-920	AMD-P	89-20-063
296-17-695	AMD-P	89-20-063	296-17-920	AMD	89-24-051
296-17-695	AMD	89-24-051	296-20-01002	AMD-P	89-23-119
296-17-707	AMD-P	89-20-063	296-20-015	AMD-P	89-23-119
296-17-707	AMD	89-24-051	296-20-02001	AMD-P	89-23-119
296-17-708	AMD-P	89-20-063	296-20-02010	AMD-P	89-23-119

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
296-22-051	AMD-P	89-12-064	296-22-225	AMD	89-17-039
296-22-051	AMD	89-17-039	296-22-230	AMD-P	89-12-064
296-22-052	AMD-P	89-12-064	296-22-230	AMD	89-17-039
296-22-052	AMD	89-17-039	296-22-235	AMD-P	89-12-064
296-22-053	AMD-P	89-12-064	296-22-235	AMD	89-17-039
296-22-053	AMD	89-17-039	296-22-245	AMD-P	89-12-064
296-22-061	AMD-P	89-12-064	296-22-245	AMD	89-17-039
296-22-061	AMD	89-17-039	296-22-250	AMD-P	89-12-064
296-22-063	AMD-P	89-12-064	296-22-250	AMD	89-17-039
296-22-063	AMD	89-17-039	296-22-255	AMD-P	89-12-064
296-22-067	AMD-P	89-12-064	296-22-255	AMD	89-17-039
296-22-067	AMD	89-17-039	296-22-260	AMD-P	89-12-064
296-22-071	AMD-P	89-12-064	296-22-260	AMD	89-17-039
296-22-071	AMD	89-17-039	296-22-265	AMD-P	89-12-064
296-22-073	AMD-P	89-12-064	296-22-265	AMD	89-17-039
296-22-073	AMD	89-17-039	296-22-285	AMD-P	89-12-064
296-22-079	AMD-P	89-12-064	296-22-285	AMD	89-17-039
296-22-079	AMD	89-17-039	296-22-305	AMD-P	89-12-064
296-22-082	AMD-P	89-12-064	296-22-305	AMD	89-17-039
296-22-082	AMD	89-17-039	296-22-306	AMD-P	89-12-064
296-22-087	AMD-P	89-12-064	296-22-306	AMD	89-17-039
296-22-087	AMD	89-17-039	296-22-310	AMD-P	89-12-064
296-22-091	AMD-P	89-12-064	296-22-310	AMD	89-17-039
296-22-091	AMD	89-17-039	296-22-315	AMD-P	89-12-064
296-22-095	AMD-P	89-12-064	296-22-315	AMD	89-17-039
296-22-095	AMD	89-17-039	296-22-325	AMD-P	89-12-064
296-22-097	AMD-P	89-12-064	296-22-325	AMD	89-17-039
296-22-097	AMD	89-17-039	296-22-330	AMD-P	89-12-064
296-22-100	AMD-P	89-12-064	296-22-330	AMD	89-17-039
296-22-100	AMD	89-17-039	296-22-333	AMD-P	89-12-064
296-22-105	AMD-P	89-12-064	296-22-333	AMD	89-17-039
296-22-105	AMD	89-17-039	296-22-337	AMD-P	89-12-064
296-22-110	AMD-P	89-12-064	296-22-337	AMD	89-17-039
296-22-110	AMD	89-17-039	296-22-340	AMD-P	89-12-064
296-22-115	AMD-P	89-12-064	296-22-340	AMD	89-17-039
296-22-115	AMD	89-17-039	296-22-350	AMD-P	89-12-064
296-22-116	AMD-P	89-12-064	296-22-350	AMD	89-17-039
296-22-116	AMD	89-17-039	296-22-355	AMD-P	89-12-064
296-22-120	AMD-P	89-12-064	296-22-355	AMD	89-17-039
296-22-120	AMD	89-17-039	296-22-365	AMD-P	89-12-064
296-22-125	AMD-P	89-12-064	296-22-365	AMD	89-17-039
296-22-125	AMD	89-17-039	296-22-370	AMD-P	89-12-064
296-22-130	AMD-P	89-12-064	296-22-370	AMD	89-17-039
296-22-130	AMD	89-17-039	296-22-375	AMD-P	89-12-064
296-22-135	AMD-P	89-12-064	296-22-375	AMD	89-17-039
296-22-135	AMD	89-17-039	296-22-405	AMD-P	89-12-064
296-22-140	AMD-P	89-12-064	296-22-405	AMD	89-17-039
296-22-140	AMD	89-17-039	296-22-410	AMD-P	89-12-064
296-22-141	AMD-P	89-12-064	296-22-410	AMD	89-17-039
296-22-141	AMD	89-17-039	296-22-425	AMD-P	89-12-064
296-22-145	AMD-P	89-12-064	296-22-425	AMD	89-17-039
296-22-145	AMD	89-17-039	296-22-427	AMD-P	89-12-064
296-22-146	AMD-P	89-12-064	296-22-427	AMD	89-17-039
296-22-146	AMD	89-17-039	296-22-430	AMD-P	89-12-064
296-22-147	AMD-P	89-12-064	296-22-430	AMD	89-17-039
296-22-147	AMD	89-17-039	296-22-435	AMD-P	89-12-064
296-22-155	AMD-P	89-12-064	296-22-435	AMD	89-17-039
296-22-155	AMD	89-17-039	296-22-440	AMD-P	89-12-064
296-22-160	AMD-P	89-12-064	296-22-440	AMD	89-17-039
296-22-160	AMD	89-17-039	296-22-445	AMD-P	89-12-064
296-22-170	AMD-P	89-12-064	296-22-445	AMD	89-17-039
296-22-170	AMD	89-17-039	296-22-455	AMD-P	89-12-064
296-22-180	AMD-P	89-12-064	296-22-455	AMD	89-17-039
296-22-180	AMD	89-17-039	296-22-465	AMD-P	89-12-064
296-22-190	AMD-P	89-12-064	296-22-465	AMD	89-17-039
296-22-190	AMD	89-17-039	296-22-470	AMD-P	89-12-064
296-22-195	AMD-P	89-12-064	296-22-470	AMD	89-17-039
296-22-195	AMD	89-17-039	296-22-475	AMD-P	89-12-064
296-22-200	AMD-P	89-12-064	296-22-475	AMD	89-17-039
296-22-200	AMD	89-17-039	296-23-010	AMD-P	89-12-064
296-22-210	AMD-P	89-12-064	296-23-010	AMD	89-17-039
296-22-210	AMD	89-17-039	296-23-01001	AMD-P	89-12-064
296-22-215	AMD-P	89-12-064	296-23-01001	AMD	89-17-039
296-22-215	AMD	89-17-039	296-23-01004	AMD-P	89-12-064
296-22-220	AMD-P	89-12-064	296-23-01004	AMD	89-17-039
296-22-220	AMD	89-17-039	296-23-01006	AMD-P	89-12-064
296-22-220	AMD	89-17-039	296-23-01006	AMD	89-17-039
296-22-225	AMD-P	89-12-064	296-23-01006	AMD	89-17-039

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
296-23-480	AMD	89-17-039	296-24-12009	AMD-P	89-22-119
296-23-485	AMD-P	89-12-064	296-24-150	AMD-P	89-06-058
296-23-485	AMD	89-17-039	296-24-150	AMD	89-11-035
296-23-490	AMD-P	89-12-064	296-24-15001	AMD-P	89-06-058
296-23-490	AMD	89-17-039	296-24-15001	AMD	89-11-035
296-23-495	AMD-P	89-12-064	296-24-15001	AMD-P	89-22-119
296-23-495	AMD	89-17-039	296-24-16503	AMD-P	89-06-058
296-23-710	AMD-P	89-03-064	296-24-16503	AMD	89-11-035
296-23-710	AMD	89-08-002	296-24-16507	AMD-P	89-22-119
296-23-730	NEW-P	89-03-064	296-24-16515	AMD-P	89-22-119
296-23-730	NEW	89-08-002	296-24-16517	AMD-P	89-06-058
296-23-900	AMD-P	89-12-064	296-24-16517	AMD	89-11-035
296-23-900	AMD	89-17-039	296-24-16517	AMD-P	89-22-119
296-23-970	AMD-P	89-03-064	296-24-195	AMD-P	89-06-058
296-23-970	AMD	89-08-002	296-24-195	AMD	89-11-035
296-23-990	NEW-P	89-03-064	296-24-20501	AMD-P	89-06-058
296-23-990	NEW	89-08-002	296-24-20501	AMD	89-11-035
296-23A-150	AMD-P	89-23-119	296-24-20503	AMD-P	89-06-058
296-23A-170	AMD-P	89-23-119	296-24-20503	AMD	89-11-035
296-23A-205	AMD-P	89-12-064	296-24-20503	AMD-P	89-22-119
296-23A-205	AMD	89-17-039	296-24-21511	AMD-P	89-06-058
296-23A-240	AMD-P	89-12-064	296-24-21511	AMD	89-11-035
296-23A-240	AMD	89-17-039	296-24-21703	AMD-P	89-06-058
296-23A-242	AMD-P	89-12-064	296-24-21703	AMD	89-11-035
296-23A-242	AMD	89-17-039	296-24-21707	AMD-P	89-06-058
296-23A-244	AMD-P	89-12-064	296-24-21707	AMD	89-11-035
296-23A-244	AMD	89-17-039	296-24-21713	AMD-P	89-06-058
296-23A-246	AMD-P	89-12-064	296-24-21713	AMD	89-11-035
296-23A-246	AMD	89-17-039	296-24-23529	AMD-P	89-06-058
296-23A-248	AMD-P	89-12-064	296-24-23529	AMD	89-11-035
296-23A-248	AMD	89-17-039	296-24-260	AMD-P	89-06-058
296-23A-252	AMD-P	89-12-064	296-24-260	AMD	89-11-035
296-23A-252	AMD	89-17-039	296-24-33011	AMD-P	89-06-058
296-23A-254	AMD-P	89-12-064	296-24-33011	AMD	89-11-035
296-23A-254	AMD	89-17-039	296-24-37003	AMD-P	89-06-058
296-23A-256	AMD-P	89-12-064	296-24-37003	AMD	89-11-035
296-23A-256	AMD	89-17-039	296-24-550	AMD-P	89-22-119
296-23A-258	AMD-P	89-12-064	296-24-567	AMD-P	89-06-058
296-23A-258	AMD	89-17-039	296-24-567	AMD	89-11-035
296-23A-260	AMD-P	89-12-064	296-24-58513	AMD-P	89-22-119
296-23A-260	AMD	89-17-039	296-24-66313	AMD-P	89-06-058
296-23A-262	AMD-P	89-12-064	296-24-66313	AMD	89-11-035
296-23A-262	AMD	89-17-039	296-24-68201	AMD-P	89-06-058
296-23A-264	AMD-P	89-12-064	296-24-68201	AMD	89-11-035
296-23A-264	AMD	89-17-039	296-24-73505	AMD-P	89-06-058
296-23A-266	AMD-P	89-12-064	296-24-73505	AMD	89-11-035
296-23A-266	AMD	89-17-039	296-24-75009	AMD-P	89-22-119
296-23A-300	AMD-P	89-12-064	296-24-75011	AMD-P	89-06-058
296-23A-300	AMD	89-17-039	296-24-75011	AMD	89-11-035
296-23A-325	AMD-P	89-12-064	296-24-76503	AMD-P	89-22-119
296-23A-325	AMD	89-17-039	296-24-76511	AMD-P	89-06-058
296-23A-330	AMD-P	89-12-064	296-24-76511	AMD	89-11-035
296-23A-330	AMD	89-17-039	296-24-78007	AMD-P	89-22-119
296-23A-335	AMD-P	89-12-064	296-24-81003	AMD-P	89-22-119
296-23A-335	AMD	89-17-039	296-24-81005	AMD-P	89-22-119
296-23A-340	AMD-P	89-12-064	296-24-82503	AMD-P	89-22-119
296-23A-340	AMD	89-17-039	296-24-92005	AMD-P	89-06-058
296-23A-345	AMD-P	89-12-064	296-24-92005	AMD	89-11-035
296-23A-345	AMD	89-17-039	296-24-94003	AMD-P	89-06-058
296-23A-350	AMD-P	89-12-064	296-24-94003	AMD	89-11-035
296-23A-350	AMD	89-17-039	296-27-020	AMD-P	89-06-058
296-23A-355	AMD-P	89-12-064	296-27-020	AMD	89-11-035
296-23A-355	AMD	89-17-039	296-30-010	AMD-P	89-14-123
296-23A-360	AMD-P	89-12-064	296-30-010	AMD-E	89-15-027
296-23A-360	AMD	89-17-039	296-30-010	AMD-C	89-19-020
296-23A-400	AMD-P	89-03-064	296-30-010	AMD	89-23-004
296-23A-400	AMD	89-08-002	296-30-025	NEW-P	89-14-123
296-23A-430	NEW-P	89-03-064	296-30-025	NEW-E	89-15-027
296-23A-430	NEW	89-08-002	296-30-025	NEW-C	89-19-020
296-24-012	AMD-P	89-06-058	296-30-025	NEW	89-23-004
296-24-012	AMD	89-11-035	296-32-230	AMD-P	89-06-058
296-24-020	AMD-P	89-22-119	296-32-230	AMD	89-11-035
296-24-07501	AMD-P	89-22-119	296-44-44009	AMD-P	89-06-058
296-24-07801	AMD-P	89-22-119	296-44-44009	AMD	89-11-035
296-24-086	AMD-P	89-22-119	296-45-65009	AMD-P	89-06-058
296-24-102	NEW-P	89-22-119	296-45-65009	AMD	89-11-035
296-24-10203	NEW-P	89-22-119	296-45-65041	AMD-P	89-06-058

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
296-62-07703	AMD-P	89-14-124	296-62-3130	AMD	89-21-018
296-62-07703	AMD-E	89-15-005	296-62-3138	NEW-P	89-14-124
296-62-07703	AMD	89-21-018	296-62-3138	NEW	89-21-018
296-62-07703	AMD-E	89-22-027	296-62-3140	AMD-P	89-06-058
296-62-07705	AMD-P	89-06-058	296-62-3140	AMD-P	89-14-124
296-62-07705	AMD	89-11-035	296-62-3140	AMD	89-21-018
296-62-07707	AMD-P	89-14-124	296-62-3150	REP-P	89-14-124
296-62-07707	AMD-E	89-15-005	296-62-3150	REP	89-21-018
296-62-07707	AMD	89-21-018	296-62-3152	AMD-P	89-14-124
296-62-07707	AMD-E	89-22-027	296-62-3152	AMD	89-21-018
296-62-07709	AMD-P	89-06-058	296-62-3160	AMD-P	89-14-124
296-62-07709	AMD	89-11-035	296-62-3160	AMD	89-21-018
296-62-07711	AMD-P	89-06-058	296-62-3170	AMD-P	89-14-124
296-62-07711	AMD	89-11-035	296-62-3170	AMD	89-21-018
296-62-07712	AMD-P	89-06-058	296-62-3180	AMD-P	89-14-124
296-62-07712	AMD	89-11-035	296-62-3180	AMD	89-21-018
296-62-07712	AMD-P	89-14-124	296-62-3190	AMD-P	89-14-124
296-62-07712	AMD-E	89-15-005	296-62-3190	AMD	89-21-018
296-62-07712	AMD	89-21-018	296-65	AMD-C	89-19-015
296-62-07712	AMD-E	89-22-027	296-65	AMD-C	89-20-018
296-62-07713	AMD-P	89-06-058	296-65-001	AMD-E	89-14-100
296-62-07713	AMD	89-11-035	296-65-001	AMD-P	89-14-124
296-62-07715	AMD-P	89-06-058	296-65-001	AMD	89-21-018
296-62-07715	AMD	89-11-035	296-65-001	AMD-E	89-22-027
296-62-07717	AMD-P	89-06-058	296-65-003	AMD-E	89-14-100
296-62-07717	AMD	89-11-035	296-65-003	AMD-P	89-14-124
296-62-07719	AMD-P	89-06-058	296-65-003	AMD	89-21-018
296-62-07719	AMD	89-11-035	296-65-003	AMD-E	89-22-027
296-62-07721	AMD-P	89-06-058	296-65-005	AMD-E	89-14-100
296-62-07721	AMD	89-11-035	296-65-005	AMD-P	89-14-124
296-62-07721	AMD-P	89-14-124	296-65-005	AMD	89-21-018
296-62-07721	AMD-E	89-15-005	296-65-005	AMD-E	89-22-027
296-62-07721	AMD	89-21-018	296-65-007	NEW-E	89-14-100
296-62-07721	AMD-E	89-22-027	296-65-007	NEW-P	89-14-124
296-62-07725	AMD-P	89-06-058	296-65-007	NEW	89-21-018
296-62-07725	AMD	89-11-035	296-65-007	NEW-E	89-22-027
296-62-07731	AMD-P	89-06-058	296-65-010	AMD-E	89-14-100
296-62-07731	AMD	89-11-035	296-65-010	AMD-P	89-14-124
296-62-07745	AMD-P	89-06-058	296-65-010	AMD	89-21-018
296-62-07745	AMD	89-11-035	296-65-010	AMD-E	89-22-027
296-62-07747	AMD-P	89-06-058	296-65-012	NEW-E	89-14-100
296-62-07747	AMD	89-11-035	296-65-012	NEW-P	89-14-124
296-62-07753	AMD-E	89-14-100	296-65-012	NEW	89-21-018
296-62-07753	AMD-P	89-14-124	296-65-012	NEW-E	89-22-027
296-62-07753	AMD	89-21-018	296-65-015	AMD-E	89-14-100
296-62-07753	AMD-E	89-22-027	296-65-015	AMD-P	89-14-124
296-62-300	AMD-P	89-06-058	296-65-015	AMD	89-21-018
296-62-300	AMD-P	89-14-124	296-65-015	AMD-E	89-22-027
296-62-300	AMD	89-21-018	296-65-017	NEW-E	89-14-100
296-62-3010	AMD-P	89-14-124	296-65-017	NEW-P	89-14-124
296-62-3010	AMD	89-21-018	296-65-017	NEW	89-21-018
296-62-3020	AMD-P	89-14-124	296-65-017	NEW-E	89-22-027
296-62-3020	AMD	89-21-018	296-65-020	AMD-E	89-14-100
296-62-3030	AMD-P	89-14-124	296-65-020	AMD-P	89-14-124
296-62-3030	AMD	89-21-018	296-65-020	AMD	89-21-018
296-62-3040	AMD-P	89-14-124	296-65-020	AMD-E	89-22-027
296-62-3040	AMD	89-21-018	296-65-025	AMD-E	89-14-100
296-62-3050	AMD-P	89-14-124	296-65-025	AMD-P	89-14-124
296-62-3050	AMD	89-21-018	296-65-025	AMD	89-21-018
296-62-3060	AMD-P	89-14-124	296-65-025	AMD-E	89-22-027
296-62-3060	AMD	89-21-018	296-65-030	AMD-E	89-14-100
296-62-3070	AMD-P	89-14-124	296-65-030	AMD-P	89-14-124
296-62-3070	AMD	89-21-018	296-65-030	AMD	89-21-018
296-62-3080	AMD-P	89-14-124	296-65-030	AMD-E	89-22-027
296-62-3080	AMD	89-21-018	296-65-035	NEW-E	89-14-100
296-62-3090	AMD-P	89-14-124	296-65-035	NEW-P	89-14-124
296-62-3090	AMD	89-21-018	296-65-035	NEW	89-21-018
296-62-3100	AMD-P	89-14-124	296-65-035	NEW-E	89-22-027
296-62-3100	AMD	89-21-018	296-65-050	NEW-E	89-14-100
296-62-3110	AMD-P	89-06-058	296-65-050	NEW-P	89-14-124
296-62-3110	AMD-P	89-14-124	296-65-050	NEW	89-21-018
296-62-3110	AMD	89-21-018	296-65-050	NEW-E	89-22-027
296-62-3112	NEW-P	89-14-124	296-78-515	AMD-P	89-06-058
296-62-3120	AMD-P	89-14-124	296-78-56501	AMD-P	89-06-058
296-62-3120	AMD	89-21-018	296-78-56501	AMD	89-11-035
296-62-3130	AMD-P	89-14-124	296-79-050	AMD-P	89-06-058

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
296-125-160	NEW-P	89-16-087	296-127-045	AMD-W	89-23-026
296-125-160	NEW	89-23-003	296-128	NEW-C	89-20-040
296-125-165	NEW-E	89-16-023	296-128-011	NEW-P	89-15-060
296-125-165	NEW-P	89-16-087	296-128-011	NEW-E	89-16-085
296-125-165	NEW	89-23-003	296-128-011	NEW	89-22-120
296-125-170	NEW-E	89-16-023	296-128-012	NEW-P	89-15-060
296-125-170	NEW-P	89-16-087	296-128-012	NEW-E	89-16-085
296-125-170	NEW	89-23-003	296-128-012	NEW	89-22-120
296-125-175	NEW-E	89-16-023	296-128-025	AMD-P	89-16-089
296-125-175	NEW-P	89-16-087	296-128-025	AMD-C	89-21-011
296-125-175	NEW	89-23-003	296-128-025	AMD	89-22-016
296-126-020	AMD-C	89-06-035	296-128-035	NEW-P	89-16-089
296-126-020	AMD-C	89-08-058	296-128-035	NEW-C	89-21-011
296-126-020	AMD-C	89-09-007	296-128-035	NEW	89-22-016
296-126-020	AMD	89-10-014	296-131-001	NEW-E	89-16-022
296-126-023	AMD-P	89-16-089	296-131-001	NEW-P	89-16-088
296-126-023	AMD-C	89-21-011	296-131-001	NEW-C	89-21-010
296-126-023	AMD	89-22-016	296-131-001	NEW	89-22-015
296-126-050	AMD-P	89-16-089	296-131-010	NEW-E	89-16-022
296-126-050	AMD-C	89-21-011	296-131-010	NEW-P	89-16-088
296-126-050	AMD	89-22-016	296-131-010	NEW-C	89-21-010
296-127	AMD-C	89-19-009A	296-131-010	NEW	89-22-015
296-127-010	AMD-P	89-12-051	296-131-015	NEW-E	89-16-022
296-127-010	AMD-C	89-17-083	296-131-015	NEW-P	89-16-088
296-127-010	AMD-C	89-19-068	296-131-015	NEW-C	89-21-010
296-127-010	AMD-P	89-19-068	296-131-015	NEW	89-22-015
296-127-010	AMD-W	89-23-026	296-131-015	NEW	89-22-015
296-127-011	AMD-P	89-12-051	296-131-017	NEW-E	89-16-022
296-127-011	AMD-C	89-17-083	296-131-017	NEW-P	89-16-088
296-127-011	AMD-C	89-19-068	296-131-017	NEW-C	89-21-010
296-127-011	AMD-W	89-23-026	296-131-017	NEW	89-22-015
296-127-013	RE-AD-P	89-12-051	296-134-001	NEW-P	89-18-090
296-127-013	RE-AD-C	89-17-083	296-134-001	NEW-E	89-18-091
296-127-013	AMD-C	89-19-068	296-134-001	NEW	89-23-044
296-127-013	RE-AD-W	89-23-026	296-134-010	NEW-P	89-18-090
296-127-014	RE-AD-P	89-12-051	296-134-010	NEW-E	89-18-091
296-127-014	RE-AD-C	89-17-083	296-134-010	NEW	89-23-044
296-127-014	AMD-C	89-19-068	296-134-030	NEW-P	89-18-090
296-127-014	RE-AD-W	89-23-026	296-134-030	NEW-E	89-18-091
296-127-015	RE-AD-P	89-12-051	296-134-030	NEW	89-23-044
296-127-015	RE-AD-C	89-17-083	296-134-040	NEW-P	89-18-090
296-127-015	AMD-C	89-19-068	296-134-040	NEW-E	89-18-091
296-127-015	RE-AD-W	89-23-026	296-134-040	NEW	89-23-044
296-127-016	RE-AD-P	89-12-051	296-134-040	NEW-E	89-18-090
296-127-016	RE-AD-C	89-17-083	296-134-040	NEW	89-23-044
296-127-016	AMD-C	89-19-068	296-134-030	NEW-P	89-18-090
296-127-016	RE-AD-W	89-23-026	296-134-030	NEW-E	89-18-091
296-127-017	RE-AD-P	89-12-051	296-134-030	NEW	89-23-044
296-127-017	RE-AD-C	89-17-083	296-134-040	NEW-P	89-18-090
296-127-017	AMD-C	89-19-068	296-134-040	NEW-E	89-18-091
296-127-017	RE-AD-W	89-23-026	296-134-060	NEW-P	89-18-090
296-127-018	RE-AD-P	89-12-051	296-134-060	NEW-E	89-23-044
296-127-018	RE-AD-C	89-17-083	296-134-060	NEW	89-23-044
296-127-018	AMD-C	89-19-068	296-134-070	NEW-P	89-18-090
296-127-018	RE-AD-W	89-23-026	296-134-070	NEW-E	89-18-091
296-127-019	RE-AD-P	89-12-051	296-134-070	NEW	89-23-044
296-127-019	RE-AD-C	89-17-083	296-134-070	NEW-P	89-18-090
296-127-019	AMD-C	89-19-068	296-134-090	NEW-E	89-18-091
296-127-019	RE-AD-W	89-23-026	296-134-090	NEW	89-23-044
296-127-020	RE-AD-P	89-12-051	296-150B-015	AMD	89-05-016
296-127-020	RE-AD-C	89-17-083	296-155-140	AMD-P	89-06-058
296-127-020	AMD-C	89-19-068	296-155-140	AMD	89-11-035
296-127-020	AMD-W	89-23-026	296-155-180	NEW-P	89-06-058
296-127-023	RE-AD-P	89-12-051	296-155-180	NEW	89-11-035
296-127-023	RE-AD-C	89-17-083	296-155-200	AMD-P	89-22-119
296-127-023	RE-AD-C	89-19-068	296-155-205	AMD-P	89-06-058
296-127-023	RE-AD-W	89-23-026	296-155-205	AMD	89-11-035
296-127-025	RE-AD-P	89-12-051	296-155-212	AMD-P	89-06-058
296-127-025	RE-AD-C	89-17-083	296-155-212	AMD	89-11-035
296-127-025	RE-AD-C	89-19-068	296-155-305	AMD-P	89-06-058
296-127-025	RE-AD-W	89-23-026	296-155-305	AMD	89-11-035
296-127-026	RE-AD-P	89-12-051	296-155-36313	AMD-P	89-06-058
296-127-026	RE-AD-C	89-17-083	296-155-36313	AMD	89-11-035
296-127-026	RE-AD-C	89-19-068	296-155-370	AMD-P	89-06-058
296-127-026	RE-AD-W	89-23-026	296-155-370	AMD	89-11-035
296-127-040	AMD-P	89-12-051	296-155-485	AMD-P	89-22-119
296-127-040	AMD-C	89-17-083	296-155-48529	AMD-P	89-06-058
296-127-040	AMD-C	89-19-068	296-155-48529	AMD	89-11-035
296-127-040	AMD-W	89-23-026	296-155-48533	AMD-P	89-06-058
296-127-045	AMD-P	89-12-051	296-155-48533	AMD	89-11-035
296-127-045	AMD-C	89-17-083	296-155-48533	AMD-P	89-22-119
296-127-045	AMD-C	89-19-068	296-155-48536	NEW-P	89-06-058
296-127-045	AMD-C	89-19-068	296-155-48536	NEW-P	89-04-045
296-127-045	AMD-C	89-19-068	296-155-48536	AMD-P	89-07-079

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
296-400-045	AMD	89-12-004	308-37-190	AMD	89-08-095
308-12-025	AMD-P	89-13-049	308-40-102	AMD	89-06-075
308-12-025	AMD	89-17-038	308-40-105	AMD-P	89-10-072
308-12-031	AMD-P	89-13-049	308-40-105	AMD-E	89-10-074
308-12-031	AMD	89-17-038	308-40-105	AMD	89-13-052
308-12-040	AMD-P	89-06-067	308-40-106	NEW-P	89-10-072
308-12-040	AMD	89-12-052	308-40-106	NEW-E	89-10-074
308-12-050	AMD-P	89-13-049	308-40-106	NEW	89-13-052
308-12-050	AMD	89-17-038	308-40-125	AMD-E	89-21-041
308-12-326	AMD-E	89-17-087	308-40-125	AMD-P	89-24-075
308-12-326	AMD-P	89-24-059	308-40-130	NEW-E	89-22-094
308-13-150	AMD-P	89-24-058	308-40-130	NEW-P	89-22-095
308-25-080	NEW-P	89-10-077	308-40-135	REP-E	89-22-094
308-25-080	NEW	89-14-092	308-40-135	REP-P	89-22-095
308-25-090	NEW-P	89-10-077	308-40-140	NEW-P	89-06-068
308-25-090	NEW	89-14-092	308-40-140	NEW	89-11-053
308-25-100	NEW-P	89-10-077	308-42-010	AMD-P	89-06-069
308-25-100	NEW	89-14-092	308-42-010	AMD-C	89-10-073
308-25-110	NEW-P	89-10-077	308-42-010	AMD-P	89-17-095
308-25-110	NEW	89-14-092	308-42-010	AMD	89-21-007
308-25-120	NEW-P	89-10-077	308-42-120	AMD-P	89-17-096
308-25-120	NEW	89-14-092	308-42-120	AMD	89-21-008
308-25-130	NEW-P	89-10-077	308-42-121	NEW-P	89-09-066
308-25-130	NEW	89-14-092	308-42-121	NEW-P	89-17-097
308-25-140	NEW-P	89-10-077	308-42-121	NEW	89-19-007
308-25-140	NEW	89-14-092	308-42-121	NEW	89-21-009
308-25-150	NEW-P	89-10-077	308-42-145	AMD-P	89-09-066
308-25-150	NEW	89-14-092	308-42-145	AMD	89-19-007
308-25-160	NEW-P	89-10-077	308-48-021	NEW-P	89-18-084
308-25-160	NEW	89-14-092	308-48-165	REP-P	89-18-084
308-25-170	NEW-P	89-13-048	308-48-350	NEW	89-04-002
308-25-170	NEW	89-16-096	308-49-100	AMD-P	89-18-084
308-26-055	NEW-P	89-10-077	308-49-130	AMD-P	89-18-084
308-26-055	NEW	89-14-092	308-49-140	AMD-P	89-18-084
308-26-065	NEW-P	89-10-077	308-49-145	NEW-P	89-18-084
308-26-065	NEW	89-14-092	308-49-150	AMD-P	89-18-084
308-26-075	NEW-P	89-10-077	308-49-160	REP-P	89-18-084
308-26-075	NEW	89-14-092	308-49-162	NEW-P	89-18-084
308-26-085	NEW-P	89-10-077	308-49-164	NEW-P	89-18-084
308-26-085	NEW	89-14-092	308-49-166	NEW-P	89-18-084
308-26-095	NEW-P	89-10-077	308-49-168	NEW-P	89-18-084
308-26-095	NEW	89-14-092	308-50-010	AMD-P	89-05-055
308-26-105	NEW-P	89-10-077	308-50-010	AMD	89-08-096
308-26-105	NEW	89-14-092	308-50-020	AMD	89-04-017
308-26-115	NEW-P	89-10-077	308-50-035	AMD	89-04-017
308-26-115	NEW	89-14-092	308-50-035	AMD-P	89-09-026
308-26-125	NEW-P	89-10-077	308-50-035	AMD	89-14-007
308-26-125	NEW	89-14-092	308-50-130	AMD	89-04-017
308-26-135	NEW-P	89-10-077	308-50-350	AMD	89-04-017
308-26-135	NEW	89-14-092	308-50-420	AMD	89-04-017
308-29-045	AMD-E	89-24-065	308-51-230	NEW-P	89-10-077
308-31-055	AMD-E	89-13-091	308-51-230	NEW	89-14-092
308-31-055	AMD-P	89-14-103	308-51-240	NEW-P	89-10-077
308-31-055	AMD	89-17-156	308-51-240	NEW	89-14-092
308-34-010	REP	89-02-051	308-51-250	NEW-P	89-10-077
308-34-020	REP	89-02-051	308-51-250	NEW	89-14-092
308-34-030	REP	89-02-051	308-51-260	NEW-P	89-10-077
308-34-040	REP	89-02-051	308-51-260	NEW	89-14-092
308-34-050	REP	89-02-051	308-51-270	NEW-P	89-10-077
308-34-060	REP	89-02-051	308-51-270	NEW	89-14-092
308-34-070	REP	89-02-051	308-51-280	NEW-P	89-10-077
308-34-080	REP	89-02-051	308-51-280	NEW	89-14-092
308-34-090	REP	89-02-051	308-51-290	NEW-P	89-10-077
308-34-310	NEW	89-02-051	308-51-290	NEW	89-14-092
308-34-320	NEW	89-02-051	308-51-300	NEW-P	89-10-077
308-34-330	NEW	89-02-051	308-51-300	NEW	89-14-092
308-34-410	NEW	89-02-051	308-51-310	NEW-P	89-10-077
308-34-420	NEW	89-02-051	308-51-310	NEW	89-14-092
308-34-430	NEW	89-02-051	308-52-139	AMD	89-06-077
308-34-440	NEW	89-02-051	308-52-165	NEW-P	89-16-097
308-34-450	NEW	89-02-051	308-52-165	NEW	89-20-023
308-34-460	NEW	89-02-051	308-52-190	NEW-P	89-05-056
308-34-470	NEW	89-02-051	308-52-190	NEW	89-08-063
308-34-480	NEW	89-02-051	308-52-255	AMD-P	89-09-067
308-37-190	AMD-P	89-02-064	308-52-255	AMD	89-12-053
308-37-190	AMD-C	89-05-020	308-52-260	AMD	89-06-077
308-37-190	REP-P	89-07-092	308-52-265	NEW-P	89-09-067

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
308-56A-610	NEW-E	89-10-045	308-100-020	AMD-P	89-15-040
308-56A-610	NEW-P	89-11-019	308-100-020	AMD	89-18-003
308-56A-610	NEW	89-16-074	308-100-030	AMD-P	89-15-040
308-56A-610	NEW-E	89-16-075	308-100-030	AMD	89-18-003
308-56A-620	NEW-E	89-10-045	308-100-040	AMD-P	89-15-040
308-56A-620	NEW-P	89-11-019	308-100-040	AMD	89-18-003
308-56A-620	NEW	89-16-074	308-100-050	AMD-P	89-15-040
308-56A-620	NEW-E	89-16-075	308-100-050	AMD	89-18-003
308-56A-630	NEW-E	89-10-045	308-100-080	REP-P	89-15-040
308-56A-630	NEW-P	89-11-019	308-100-080	REP	89-18-003
308-56A-630	NEW	89-16-074	308-100-100	NEW-P	89-15-040
308-56A-630	NEW-E	89-16-075	308-100-100	NEW	89-18-003
308-56A-640	NEW-E	89-10-045	308-100-110	NEW-P	89-15-040
308-56A-640	NEW-P	89-11-019	308-100-110	NEW	89-18-003
308-56A-640	NEW	89-16-074	308-100-120	NEW-P	89-15-040
308-56A-640	NEW-E	89-16-075	308-100-120	NEW	89-18-003
308-56A-650	NEW-E	89-10-045	308-100-130	NEW-P	89-15-040
308-56A-650	NEW-P	89-11-019	308-100-130	NEW	89-18-003
308-56A-650	NEW	89-16-074	308-100-140	NEW-P	89-15-040
308-56A-650	NEW-E	89-16-075	308-100-140	NEW	89-18-003
308-56A-660	NEW-E	89-10-045	308-100-150	NEW-P	89-15-040
308-56A-660	NEW-P	89-11-019	308-100-150	NEW	89-18-003
308-56A-660	NEW	89-16-074	308-100-160	NEW-P	89-15-040
308-56A-660	NEW-E	89-16-075	308-100-160	NEW	89-18-003
308-56A-670	NEW-E	89-10-045	308-100-170	NEW-P	89-15-040
308-56A-670	NEW-P	89-11-019	308-100-170	NEW	89-18-003
308-56A-670	NEW	89-16-074	308-100-180	NEW-P	89-15-040
308-56A-670	NEW-E	89-16-075	308-100-180	NEW	89-18-003
308-56A-680	NEW-E	89-10-045	308-100-190	NEW-P	89-15-040
308-56A-680	NEW-P	89-11-019	308-100-190	NEW	89-18-003
308-56A-680	NEW	89-16-074	308-100-200	NEW-P	89-15-040
308-56A-680	NEW-E	89-16-075	308-100-200	NEW	89-18-003
308-56A-690	NEW-E	89-10-045	308-104-025	AMD-P	89-15-040
308-56A-690	NEW-P	89-11-019	308-104-025	AMD	89-18-003
308-56A-690	NEW	89-16-074	308-104-035	NEW-P	89-15-040
308-56A-690	NEW-E	89-16-075	308-104-035	NEW	89-18-003
308-61-108	AMD-P	89-20-010	308-104-100	AMD-P	89-15-040
308-61-108	AMD-E	89-20-011	308-104-100	AMD	89-18-003
308-61-135	AMD-P	89-20-010	308-104-105	AMD-P	89-15-040
308-61-135	AMD-E	89-20-011	308-104-105	AMD	89-18-003
308-61-185	AMD-P	89-20-010	308-106-010	NEW-P	89-19-052
308-61-185	AMD-E	89-20-011	308-106-010	NEW	89-22-030
308-61-190	AMD-P	89-20-010	308-106-020	NEW-P	89-19-052
308-61-190	AMD-E	89-20-011	308-106-020	NEW	89-22-030
308-61-230	AMD-P	89-20-010	308-106-030	NEW-P	89-19-052
308-61-230	AMD-E	89-20-011	308-106-030	NEW	89-22-030
308-67-010	NEW-P	89-23-123	308-115-065	NEW	89-16-037
308-67-010	NEW-E	89-23-124	308-115-260	NEW-P	89-10-077
308-77-030	AMD	89-03-005	308-115-260	NEW	89-14-092
308-77-034	AMD	89-03-005	308-115-270	NEW-P	89-10-077
308-77-040	AMD	89-03-005	308-115-270	NEW	89-14-092
308-77-042	NEW	89-03-034	308-115-280	NEW-P	89-10-077
308-77-044	NEW	89-03-034	308-115-280	NEW	89-14-092
308-77-060	AMD	89-03-005	308-115-290	NEW-P	89-10-077
308-89-040	AMD-P	89-08-091	308-115-290	NEW	89-14-092
308-89-040	AMD-E	89-08-094	308-115-310	NEW-P	89-10-077
308-90-080	AMD-E	89-14-091	308-115-310	NEW	89-14-092
308-90-080	AMD-P	89-15-049	308-115-320	NEW-P	89-10-077
308-90-080	AMD	89-18-028	308-115-320	NEW	89-14-092
308-91	AMD-P	89-02-063	308-115-330	NEW-P	89-10-077
308-91	AMD	89-07-035	308-115-330	NEW	89-14-092
308-91-030	AMD-P	89-02-062	308-115-340	NEW-P	89-10-077
308-91-030	AMD	89-07-036	308-115-340	NEW	89-14-092
308-91-040	AMD-P	89-02-063	308-115-350	NEW-P	89-10-077
308-91-040	AMD	89-07-035	308-115-350	NEW	89-14-092
308-91-050	AMD-P	89-02-063	308-115-405	AMD-P	89-05-018
308-91-050	AMD	89-07-035	308-115-405	AMD	89-08-008
308-91-140	AMD-P	89-02-063	308-117-080	AMD-P	89-06-071
308-91-140	AMD	89-07-035	308-117-080	AMD	89-10-075
308-96A-260	AMD-P	89-08-091	308-117-450	NEW-P	89-02-065
308-96A-260	AMD-E	89-08-094	308-117-460	NEW-P	89-02-065
308-99-025	AMD-P	89-17-065	308-117-460	NEW	89-07-005
308-99-025	AMD	89-20-043	308-117-470	NEW-P	89-02-065
308-99-050	NEW-P	89-17-065	308-117-470	NEW	89-07-005
308-99-050	NEW	89-20-043	308-117-480	NEW-P	89-02-065
308-100-010	AMD-P	89-15-040	308-117-480	NEW	89-07-005
308-100-010	AMD	89-18-003	308-120-165	AMD-P	89-22-104

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
308-124D-061	NEW-P	89-22-069	308-177-080	NEW	89-14-092
308-124D-065	REP-P	89-07-091	308-177-090	NEW-P	89-10-077
308-124D-065	REP	89-11-032	308-177-090	NEW	89-14-092
308-124E-012	AMD-P	89-22-070	308-177-110	NEW	89-03-035
308-124E-014	AMD-P	89-22-071	308-177-110	AMD-E	89-14-009
308-124H-010	AMD-P	89-22-072	308-177-110	AMD-P	89-14-104
308-124H-030	AMD-P	89-07-091	308-177-110	AMD	89-17-071
308-124H-030	AMD	89-11-032	308-177-115	NEW-E	89-14-009
308-126A-030	AMD-P	89-15-058	308-177-115	NEW-P	89-14-104
308-126A-030	AMD	89-18-038	308-177-115	NEW	89-17-071
308-128B-060	REP-P	89-23-042	308-177-120	NEW	89-03-035
308-128B-060	REP-W	89-24-031	308-177-120	AMD-E	89-14-009
308-128B-060	REP-P	89-24-077	308-177-120	AMD-P	89-14-104
308-128B-080	AMD-P	89-24-078	308-177-120	AMD	89-17-071
308-128E-010	REP-P	89-04-001	308-177-130	NEW	89-03-035
308-128E-010	REP	89-07-077	308-177-130	AMD-E	89-14-009
308-128E-011	NEW-P	89-04-001	308-177-130	AMD-P	89-14-104
308-128E-011	NEW	89-07-077	308-177-130	AMD	89-17-071
308-130-320	NEW-P	89-10-077	308-177-140	NEW	89-03-035
308-130-320	NEW	89-14-092	308-177-150	NEW	89-03-035
308-130-330	NEW-P	89-10-077	308-177-150	REP-E	89-14-009
308-130-330	NEW	89-14-092	308-177-150	REP-P	89-14-104
308-130-340	NEW-P	89-10-077	308-177-150	REP	89-17-071
308-130-340	NEW	89-14-092	308-177-160	NEW-E	89-14-009
308-130-350	NEW-P	89-10-077	308-177-160	NEW-P	89-14-104
308-130-350	NEW	89-14-092	308-177-160	NEW	89-17-071
308-130-360	NEW-P	89-10-077	308-177-180	NEW-E	89-14-009
308-130-360	NEW	89-14-092	308-177-180	NEW-P	89-14-104
308-130-370	NEW-P	89-10-077	308-177-180	NEW	89-17-071
308-130-370	NEW	89-14-092	308-177-190	NEW-E	89-14-009
308-130-380	NEW-P	89-10-077	308-177-190	NEW-P	89-14-104
308-130-380	NEW	89-14-092	308-177-190	NEW	89-17-071
308-130-390	NEW-P	89-10-077	308-180-290	NEW-P	89-10-077
308-130-390	NEW	89-14-092	308-180-290	NEW	89-14-092
308-130-400	NEW-P	89-10-077	308-180-300	NEW-P	89-10-077
308-130-400	NEW	89-14-092	308-180-300	NEW	89-14-092
308-138A-020	AMD-P	89-13-051	308-180-310	NEW-P	89-10-077
308-138A-020	AMD	89-22-065	308-180-310	NEW	89-14-092
308-138A-025	AMD-P	89-19-054	308-180-320	NEW-P	89-10-077
308-138A-025	AMD	89-23-067	308-180-320	NEW	89-14-092
308-138A-070	NEW-P	89-13-051	308-180-330	NEW-P	89-10-077
308-138A-070	NEW	89-22-065	308-180-330	NEW	89-14-092
308-138A-080	NEW-P	89-13-051	308-180-340	NEW-P	89-10-077
308-138A-080	NEW	89-22-065	308-180-340	NEW	89-14-092
308-138A-090	NEW-P	89-13-051	308-180-350	NEW-P	89-10-077
308-138A-090	NEW	89-22-065	308-180-350	NEW	89-14-092
308-150-014	AMD-P	89-06-073	308-180-360	NEW-P	89-10-077
308-150-014	AMD	89-10-076	308-180-360	NEW	89-14-092
308-154-085	NEW-P	89-06-073	308-180-370	NEW-P	89-10-077
308-154-085	NEW	89-10-076	308-180-370	NEW	89-14-092
308-156-200	NEW-P	89-06-073	308-183-010	NEW-P	89-10-077
308-156-200	NEW	89-10-076	308-183-010	NEW	89-14-092
308-173-010	NEW-P	89-10-077	308-183-020	NEW-P	89-10-077
308-173-010	NEW	89-14-092	308-183-020	NEW	89-14-092
308-173-020	NEW-P	89-10-077	308-183-030	NEW-P	89-10-077
308-173-020	NEW	89-14-092	308-183-030	NEW	89-14-092
308-173-070	NEW-P	89-10-077	308-183-040	NEW-P	89-10-077
308-173-070	NEW	89-14-092	308-183-040	NEW	89-14-092
308-173-080	NEW-P	89-10-077	308-183-050	NEW-P	89-10-077
308-173-080	NEW	89-14-092	308-183-050	NEW	89-14-092
308-173-090	NEW-P	89-10-077	308-183-060	NEW-P	89-10-077
308-173-090	NEW	89-14-092	308-183-060	NEW	89-14-092
308-177-010	NEW-P	89-10-077	308-183-070	NEW-P	89-10-077
308-177-010	NEW	89-14-092	308-183-070	NEW	89-14-092
308-177-020	NEW-P	89-10-077	308-183-080	NEW-P	89-10-077
308-177-020	NEW	89-14-092	308-183-080	NEW	89-14-092
308-177-030	NEW-P	89-10-077	308-190-030	AMD-P	89-07-081
308-177-030	NEW	89-14-092	308-190-030	AMD	89-14-070
308-177-040	NEW-P	89-10-077	308-190-040	AMD-P	89-07-081
308-177-040	NEW	89-14-092	308-190-040	AMD	89-14-070
308-177-050	NEW-P	89-10-077	308-190-041	NEW-P	89-07-081
308-177-050	NEW	89-14-092	308-190-041	NEW	89-14-070
308-177-060	NEW-P	89-10-077	308-190-042	NEW-P	89-07-081
308-177-060	NEW	89-14-092	308-190-042	NEW	89-14-070
308-177-070	NEW-P	89-10-077	308-190-060	NEW-P	89-10-077
308-177-070	NEW	89-14-092	308-190-060	NEW	89-14-092
308-177-080	NEW-P	89-10-077	308-190-070	NEW-P	89-10-077

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
308-220-110	NEW-P	89-10-077	308-400-095	AMD	89-06-078
308-220-110	NEW	89-14-092	308-400-095	AMD-P	89-21-077
308-220-120	NEW-P	89-10-077	308-400-095	AMD	89-24-022
308-220-120	NEW	89-14-092	308-400-100	AMD	89-06-078
308-220-130	NEW-P	89-10-077	308-400-100	AMD-P	89-21-077
308-220-130	NEW	89-14-092	308-400-100	AMD	89-24-022
308-220-140	NEW-P	89-10-077	308-400-120	NEW	89-06-078
308-220-140	NEW	89-14-092	314-12-037	NEW-W	89-07-015
308-220-150	NEW-P	89-10-077	314-12-038	NEW-W	89-07-015
308-220-150	NEW	89-14-092	314-12-175	NEW-C	89-11-033
308-220-160	NEW-P	89-10-077	314-12-175	NEW-C	89-13-050
308-220-160	NEW	89-14-092	314-12-175	NEW-P	89-14-040
308-220-170	NEW-P	89-10-077	314-12-175	NEW-E	89-14-042
308-220-170	NEW	89-14-092	314-12-175	NEW-W	89-14-044
308-230-060	NEW-P	89-10-077	314-12-175	NEW-C	89-17-036
308-230-060	NEW	89-14-092	314-12-175	NEW	89-18-005
308-230-070	NEW-P	89-10-077	314-16-075	AMD-P	89-04-025
308-230-070	NEW	89-14-092	314-16-075	AMD	89-08-014
308-230-080	NEW-P	89-10-077	314-16-120	AMD	89-03-045
308-230-080	NEW	89-14-092	314-16-250	NEW-P	89-14-041
308-230-090	NEW-P	89-10-077	314-16-250	NEW-E	89-14-043
308-230-090	NEW	89-14-092	314-16-250	NEW	89-17-037
308-230-100	NEW-P	89-10-077	314-20-030	AMD-P	89-03-040
308-230-100	NEW	89-14-092	314-20-030	AMD	89-06-013
308-230-110	NEW-P	89-10-077	314-60-040	AMD-P	89-23-103
308-230-110	NEW	89-14-092	315-02-220	AMD-P	89-17-108
308-230-120	NEW-P	89-10-077	315-02-220	AMD	89-21-029
308-230-120	NEW	89-14-092	315-06-020	AMD-P	89-09-079
308-230-130	NEW-P	89-10-077	315-06-020	AMD	89-12-042
308-230-130	NEW	89-14-092	315-06-035	AMD	89-05-015
308-230-140	NEW-P	89-10-077	315-06-115	NEW-P	89-13-061
308-230-140	NEW	89-14-092	315-06-115	NEW	89-17-021
308-310-020	NEW	89-05-019	315-06-120	AMD-P	89-09-079
308-310-030	NEW	89-05-019	315-06-120	AMD	89-12-042
308-310-040	NEW	89-05-019	315-10-020	AMD-P	89-17-108
308-320-010	NEW-P	89-22-117	315-10-020	AMD	89-21-029
308-320-020	NEW-P	89-22-117	315-10-030	AMD-P	89-17-108
308-320-030	NEW-P	89-22-117	315-10-030	AMD	89-21-029
308-320-040	NEW-P	89-22-117	315-10-060	AMD-C	89-05-014
308-320-050	NEW-P	89-22-117	315-10-060	AMD	89-09-008
308-320-060	NEW-P	89-22-117	315-11-400	NEW	89-05-015
308-320-070	NEW-P	89-22-117	315-11-401	NEW	89-05-015
308-320-080	NEW-P	89-22-117	315-11-402	NEW	89-05-015
308-320-090	NEW-P	89-22-117	315-11-410	NEW-P	89-06-084
308-320-100	NEW-P	89-22-117	315-11-410	NEW	89-09-009
308-400	AMD	89-06-078	315-11-411	NEW-P	89-06-084
308-400	AMD-P	89-21-077	315-11-411	NEW	89-09-009
308-400-	AMD	89-24-022	315-11-412	NEW-P	89-06-084
308-400-010	AMD	89-06-078	315-11-412	NEW	89-09-009
308-400-010	AMD-P	89-21-077	315-11-420	NEW-P	89-06-084
308-400-010	AMD	89-24-022	315-11-420	NEW	89-09-009
308-400-020	AMD	89-06-078	315-11-421	NEW-P	89-06-084
308-400-025	AMD	89-06-078	315-11-421	NEW	89-09-009
308-400-025	AMD-P	89-21-077	315-11-422	NEW-P	89-06-084
308-400-025	AMD	89-24-022	315-11-422	NEW	89-09-009
308-400-030	AMD	89-06-078	315-11-430	NEW-P	89-06-084
308-400-040	AMD	89-06-078	315-11-430	NEW	89-09-009
308-400-040	AMD-P	89-21-077	315-11-431	NEW-P	89-06-084
308-400-040	AMD	89-24-022	315-11-431	NEW	89-09-009
308-400-044	REP	89-06-078	315-11-432	NEW-P	89-06-084
308-400-046	AMD	89-06-078	315-11-432	NEW	89-09-009
308-400-046	AMD-P	89-21-077	315-11-440	NEW-P	89-09-079
308-400-046	AMD	89-24-022	315-11-440	NEW	89-12-042
308-400-047	AMD	89-06-078	315-11-441	NEW-P	89-09-079
308-400-047	AMD-P	89-21-077	315-11-441	NEW	89-12-042
308-400-047	AMD	89-24-022	315-11-442	NEW-P	89-09-079
308-400-048	AMD	89-06-078	315-11-442	NEW	89-12-042
308-400-048	AMD-P	89-21-077	315-11-450	NEW-P	89-09-079
308-400-048	AMD	89-24-022	315-11-450	NEW	89-12-042
308-400-050	AMD	89-06-078	315-11-451	NEW-P	89-09-079
308-400-050	AMD-P	89-21-077	315-11-451	NEW	89-12-042
308-400-050	AMD	89-24-022	315-11-452	NEW-P	89-09-079
308-400-052	AMD	89-06-078	315-11-452	NEW	89-12-042
308-400-052	AMD-P	89-21-077	315-11-460	NEW-P	89-13-061
308-400-052	AMD	89-24-022	315-11-460	NEW	89-17-021
308-400-058	AMD	89-06-078	315-11-461	NEW-P	89-13-061
308-400-059	AMD	89-06-078	315-11-461	NEW	89-17-021

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
316-02-020	RE-AD-E 89-18-062	316-02-620	NEW-P 89-22-126	316-45-010	RE-AD-E 89-18-061
316-02-020	RE-AD-P 89-22-126	316-02-630	NEW-P 89-22-126	316-45-010	RE-AD-P 89-22-059
316-02-030	RE-AD-E 89-18-062	316-02-640	NEW-P 89-22-126	316-45-030	AMD-E 89-18-061
316-02-030	RE-AD-P 89-22-126	316-02-650	NEW-P 89-22-126	316-45-030	AMD-P 89-22-059
316-02-040	RE-AD-E 89-18-062	316-02-660	NEW-P 89-22-126	316-45-050	AMD-E 89-18-061
316-02-040	RE-AD-P 89-22-126	316-02-700	NEW-E 89-18-062	316-45-070	AMD-P 89-22-059
316-02-100	RE-AD-E 89-18-062	316-02-700	NEW-P 89-22-126	316-45-070	RE-AD-E 89-18-061
316-02-100	RE-AD-P 89-22-126	316-02-800	RE-AD-E 89-18-062	316-45-070	RE-AD-P 89-22-059
316-02-103	RE-AD-E 89-18-062	316-02-800	RE-AD-P 89-22-126	316-45-090	RE-AD-E 89-18-061
316-02-103	RE-AD-P 89-22-126	316-02-810	AMD-E 89-18-062	316-45-090	RE-AD-P 89-22-059
316-02-105	RE-AD-E 89-18-062	316-02-810	AMD-P 89-22-126	316-45-110	AMD-E 89-18-061
316-02-105	RE-AD-P 89-22-126	316-02-820	RE-AD-E 89-18-062	316-45-110	AMD-P 89-22-059
316-02-110	RE-AD-E 89-18-062	316-02-820	RE-AD-P 89-22-126	316-45-130	AMD-E 89-18-061
316-02-110	RE-AD-P 89-22-126	316-02-900	RE-AD-E 89-18-062	316-45-130	AMD-P 89-22-059
316-02-120	RE-AD-E 89-18-062	316-02-900	RE-AD-P 89-22-126	316-45-150	RE-AD-E 89-18-061
316-02-120	RE-AD-P 89-22-126	316-02-910	RE-AD-E 89-18-062	316-45-150	RE-AD-P 89-22-059
316-02-135	AMD-E 89-18-062	316-02-910	AMD-P 89-22-126	316-45-170	AMD-E 89-18-061
316-02-135	AMD-P 89-22-126	316-02-920	RE-AD-E 89-18-062	316-45-170	AMD-P 89-22-059
316-02-150	AMD-E 89-18-062	316-02-920	AMD-P 89-22-126	316-45-190	AMD-E 89-18-061
316-02-150	AMD-P 89-22-126	316-02-930	AMD-E 89-18-062	316-45-190	AMD-P 89-22-059
316-02-160	RE-AD-E 89-18-062	316-02-930	AMD-P 89-22-126	316-45-210	RE-AD-E 89-18-061
316-02-160	RE-AD-P 89-22-126	316-25-001	AMD-P 89-22-057	316-45-210	RE-AD-P 89-22-059
316-02-170	AMD-E 89-18-062	316-25-010	RE-AD-P 89-22-057	316-45-230	RE-AD-E 89-18-061
316-02-170	AMD-P 89-22-126	316-25-030	AMD-P 89-22-057	316-45-230	RE-AD-P 89-22-059
316-02-180	RE-AD-E 89-18-062	316-25-050	AMD-P 89-22-057	316-45-250	RE-AD-E 89-18-061
316-02-180	RE-AD-P 89-22-126	316-25-070	AMD-P 89-22-057	316-45-250	RE-AD-P 89-22-059
316-02-200	AMD-E 89-18-062	316-25-090	AMD-P 89-22-057	316-45-270	RE-AD-E 89-18-061
316-02-200	AMD-P 89-22-126	316-25-110	AMD-P 89-22-057	316-45-270	RE-AD-P 89-22-059
316-02-210	RE-AD-E 89-18-062	316-25-130	RE-AD-P 89-22-057	316-45-290	AMD-E 89-18-061
316-02-210	AMD-P 89-22-126	316-25-140	NEW-P 89-22-057	316-45-290	AMD-P 89-22-059
316-02-220	RE-AD-E 89-18-062	316-25-150	RE-AD-P 89-22-057	316-45-310	AMD-E 89-18-061
316-02-220	AMD-P 89-22-126	316-25-170	RE-AD-P 89-22-057	316-45-310	AMD-P 89-22-059
316-02-230	RE-AD-E 89-18-062	316-25-190	AMD-P 89-22-057	316-45-330	RE-AD-E 89-18-061
316-02-230	RE-AD-P 89-22-126	316-25-210	RE-AD-P 89-22-057	316-45-330	RE-AD-P 89-22-059
316-02-300	AMD-E 89-18-062	316-25-220	NEW-P 89-22-057	316-45-350	RE-AD-E 89-18-061
316-02-300	AMD-P 89-22-126	316-25-230	AMD-P 89-22-057	316-45-350	AMD-P 89-22-059
316-02-310	AMD-E 89-18-062	316-25-250	RE-AD-P 89-22-057	316-45-370	RE-AD-E 89-18-061
316-02-310	AMD-P 89-22-126	316-25-270	RE-AD-P 89-22-057	316-45-370	RE-AD-P 89-22-059
316-02-320	REP-E 89-18-062	316-25-290	AMD-P 89-22-057	316-45-390	RE-AD-E 89-18-061
316-02-320	REP-P 89-22-126	316-25-310	AMD-P 89-22-057	316-45-390	RE-AD-P 89-22-059
316-02-330	REP-E 89-18-062	316-25-330	RE-AD-P 89-22-057	316-45-410	AMD-E 89-18-061
316-02-330	REP-P 89-22-126	316-25-350	AMD-P 89-22-057	316-45-410	AMD-P 89-22-059
316-02-340	RE-AD-E 89-18-062	316-25-370	RE-AD-P 89-22-057	316-45-430	AMD-E 89-18-061
316-02-340	RE-AD-P 89-22-126	316-25-390	RE-AD-P 89-22-057	316-45-430	AMD-P 89-22-059
316-02-350	RE-AD-E 89-18-062	316-25-410	RE-AD-P 89-22-057	316-45-550	AMD-E 89-18-061
316-02-350	RE-AD-P 89-22-126	316-25-430	RE-AD-P 89-22-057	316-45-550	AMD-P 89-22-059
316-02-360	RE-AD-E 89-18-062	316-25-450	RE-AD-P 89-22-057	316-65-001	AMD-E 89-21-057
316-02-360	RE-AD-P 89-22-126	316-25-470	AMD-P 89-22-057	316-65-001	AMD-P 89-22-125
316-02-370	RE-AD-E 89-18-062	316-25-490	RE-AD-P 89-22-057	316-65-005	NEW-E 89-21-057
316-02-370	RE-AD-P 89-22-126	316-25-510	AMD-P 89-22-057	316-65-005	NEW-P 89-22-125
316-02-400	RE-AD-E 89-18-062	316-25-530	RE-AD-P 89-22-057	316-65-010	AMD-E 89-21-057
316-02-400	RE-AD-P 89-22-126	316-25-550	RE-AD-P 89-22-057	316-65-010	AMD-P 89-22-125
316-02-410	RE-AD-E 89-18-062	316-25-570	AMD-P 89-22-057	316-65-020	NEW-E 89-21-057
316-02-410	RE-AD-P 89-22-126	316-25-590	AMD-P 89-22-057	316-65-020	NEW-P 89-22-125
316-02-420	RE-AD-E 89-18-062	316-25-610	RE-AD-P 89-22-057	316-65-030	AMD-E 89-21-057
316-02-420	RE-AD-P 89-22-126	316-25-630	AMD-P 89-22-057	316-65-030	AMD-P 89-22-125
316-02-440	NEW-P 89-22-126	316-25-650	AMD-P 89-22-057	316-65-050	AMD-E 89-21-057
316-02-450	AMD-E 89-18-062	316-25-670	RE-AD-P 89-22-057	316-65-050	AMD-P 89-22-125
316-02-450	AMD-P 89-22-126	316-35-001	AMD-P 89-22-058	316-65-060	NEW-E 89-21-057
316-02-460	RE-AD-E 89-18-062	316-35-010	AMD-P 89-22-058	316-65-060	NEW-P 89-22-125
316-02-460	RE-AD-P 89-22-126	316-35-030	AMD-P 89-22-058	316-65-070	NEW-E 89-21-057
316-02-470	RE-AD-E 89-18-062	316-35-050	AMD-P 89-22-058	316-65-070	NEW-P 89-22-125
316-02-470	RE-AD-P 89-22-126	316-35-070	RE-AD-P 89-22-058	316-65-080	NEW-E 89-21-057
316-02-490	RE-AD-E 89-18-062	316-35-090	AMD-P 89-22-058	316-65-080	NEW-P 89-22-125
316-02-490	RE-AD-P 89-22-126	316-35-110	AMD-P 89-22-058	316-65-090	REP-E 89-21-057
316-02-500	AMD-E 89-18-062	316-35-130	AMD-P 89-22-058	316-65-090	REP-P 89-22-125
316-02-500	AMD-P 89-22-126	316-35-150	RE-AD-P 89-22-058	316-65-110	REP-E 89-21-057
316-02-510	AMD-E 89-18-062	316-35-160	NEW-P 89-22-058	316-65-110	REP-P 89-22-125
316-02-510	AMD-P 89-22-126	316-35-170	AMD-P 89-22-058	316-65-130	REP-E 89-21-057
316-02-520	NEW-E 89-18-062	316-35-190	AMD-P 89-22-058	316-65-130	REP-P 89-22-125
316-02-520	NEW-P 89-22-126	316-35-210	AMD-P 89-22-058	316-65-150	AMD-E 89-21-057
316-02-560	NEW-E 89-18-062	316-35-230	RE-AD-P 89-22-058	316-65-150	AMD-P 89-22-125
316-02-560	NEW-P 89-22-126	316-35-250	AMD-P 89-22-058	316-65-500	REP-E 89-21-057
316-02-600	RE-AD-E 89-18-062	316-45-001	AMD-E 89-18-061	316-65-500	REP-P 89-22-125
316-02-600	AMD-P 89-22-126	316-45-001	AMD-P 89-22-059	316-65-510	AMD-E 89-21-057
316-02-610	RE-AD-E 89-18-062	316-45-003	NEW-E 89-18-061	316-65-510	AMD-P 89-22-125
316-02-610	AMD-P 89-22-126	316-45-003	NEW-P 89-22-059	316-65-515	AMD-E 89-21-057

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
316-65-515	AMD-P	89-22-125	332-130-030	AMD	89-11-028
316-65-525	AMD-E	89-21-057	332-130-040	AMD-C	89-08-021
316-65-525	AMD-P	89-22-125	332-130-040	AMD	89-11-028
316-65-530	AMD-E	89-21-057	332-130-050	AMD-C	89-08-021
316-65-530	AMD-P	89-22-125	332-130-050	AMD	89-11-028
316-65-535	AMD-E	89-21-057	332-130-060	AMD-C	89-08-021
316-65-535	AMD-P	89-22-125	332-130-060	AMD	89-11-028
316-65-538	NEW-E	89-21-057	332-130-070	AMD-C	89-08-021
316-65-538	NEW-P	89-22-125	332-130-070	AMD	89-11-028
316-65-540	AMD-E	89-21-057	332-130-080	AMD-C	89-08-021
316-65-540	AMD-P	89-22-125	332-130-080	AMD	89-11-028
316-65-545	AMD-E	89-21-057	332-130-090	NEW-C	89-08-021
316-65-545	AMD-P	89-22-125	332-130-090	NEW	89-11-028
316-65-550	AMD-E	89-21-057	332-130-100	NEW-C	89-08-021
316-65-550	AMD-P	89-22-125	332-130-100	NEW	89-11-028
316-65-555	AMD-E	89-21-057	332-140-400	NEW-P	89-13-065
316-65-555	AMD-P	89-22-125	332-140-400	NEW-E	89-14-072
316-65-560	AMD-E	89-21-057	332-140-400	NEW	89-17-057
316-65-560	AMD-P	89-22-125	352-32-010	AMD-P	89-03-067
316-65-600	NEW-E	89-21-057	352-32-010	AMD	89-07-020
316-65-600	NEW-P	89-22-125	352-32-047	NEW-P	89-03-067
316-75-001	AMD-P	89-22-060	352-32-047	NEW	89-07-020
316-75-010	RE-AD-P	89-22-060	352-32-047	NEW	89-07-098
316-75-030	RE-AD-P	89-22-060	352-32-235	AMD-P	89-24-076
316-75-050	AMD-P	89-22-060	352-32-250	AMD-P	89-03-067
316-75-070	RE-AD-P	89-22-060	352-32-250	AMD	89-07-020
316-75-090	AMD-P	89-22-060	352-32-25001	AMD-P	89-19-066
316-75-110	AMD-P	89-22-060	352-32-25001	AMD	89-22-073
316-75-130	RE-AD-P	89-22-060	352-32-251	AMD-P	89-23-079
316-75-150	AMD-P	89-22-060	356-05-097	NEW-P	89-16-052
316-75-170	AMD-P	89-22-060	356-05-210	AMD-P	89-24-072
316-75-190	AMD-P	89-22-060	356-05-238	NEW-C	89-03-056
316-75-210	AMD-P	89-22-060	356-05-238	NEW	89-06-028
316-75-230	RE-AD-P	89-22-060	356-05-390	AMD-P	89-08-059
316-75-250	AMD-P	89-22-060	356-05-390	AMD-C	89-11-042
316-75-270	AMD-P	89-22-060	356-05-390	AMD-C	89-13-039
316-75-290	REP-P	89-22-060	356-05-390	AMD	89-16-030
316-75-310	RE-AD-P	89-22-060	356-07-030	AMD-P	89-22-114
326-02-030	AMD-E	89-13-046	356-10-050	AMD-P	89-22-116
326-02-030	AMD-P	89-17-109	356-14-062	AMD-C	89-03-057
326-02-030	AMD-E	89-17-114	356-14-062	AMD-C	89-07-055
326-02-030	AMD	89-24-047	356-14-062	AMD-C	89-11-041
326-20-081	NEW-E	89-13-046	356-14-240	AMD-C	89-03-058
326-20-081	NEW-P	89-17-109	356-14-240	AMD-P	89-22-113
326-20-081	NEW-E	89-17-114	356-15-030	AMD-C	89-05-044
326-20-081	NEW	89-24-047	356-15-080	AMD-C	89-03-058
326-30-030	AMD-E	89-13-045	356-15-080	AMD-C	89-07-054
326-30-030	AMD-P	89-17-110	356-15-090	AMD-C	89-03-058
326-30-030	AMD-E	89-17-112	356-15-090	AMD-P	89-06-009
326-30-030	AMD-C	89-24-045	356-15-090	AMD-W	89-06-039
326-30-030	AMD-E	89-24-048	356-15-090	AMD-P	89-06-040
326-30-03902	NEW-E	89-13-044	356-15-090	AMD	89-10-040
326-30-03902	NEW-P	89-17-111	356-15-090	AMD-P	89-11-090
326-30-03902	NEW-E	89-17-113	356-15-090	AMD-E	89-15-031
326-30-03902	NEW-C	89-24-046	356-15-090	AMD	89-16-031
326-30-03902	NEW-E	89-24-049	356-15-110	AMD-P	89-10-037
326-50-030	AMD-P	89-19-070	356-15-130	AMD-P	89-10-038
326-50-030	AMD	89-24-050	356-15-130	AMD	89-14-027
326-50-050	AMD-P	89-19-070	356-15-140	NEW-P	89-04-024
326-50-050	AMD	89-24-050	356-15-140	NEW	89-07-056
332-26-020	NEW-E	89-15-004	356-18-020	AMD-C	89-03-056
332-26-040	NEW-E	89-15-004	356-18-020	AMD	89-06-028
332-26-041	NEW-E	89-16-081	356-18-025	AMD-C	89-03-056
332-26-050	NEW-E	89-15-004	356-18-025	AMD	89-06-028
332-26-060	NEW-E	89-15-004	356-18-030	AMD-C	89-03-056
332-26-080	NEW-E	89-09-014	356-18-030	AMD	89-06-028
332-26-081	NEW-E	89-14-068	356-18-040	AMD-C	89-03-056
332-26-095	NEW-E	89-05-023	356-18-040	AMD	89-06-028
332-26-095	REP-E	89-06-004	356-18-050	AMD-C	89-03-056
332-30-166	AMD-P	89-23-104	356-18-050	AMD	89-06-028
332-130	AMD-C	89-08-021	356-18-050	AMD-E	89-09-040
332-130	AMD	89-11-028	356-18-050	AMD-P	89-10-039
332-130-010	AMD-C	89-08-021	356-18-050	AMD-C	89-13-037
332-130-010	AMD	89-11-028	356-18-050	AMD	89-15-028
332-130-020	AMD-C	89-08-021	356-18-050	AMD-E	89-15-030
332-130-020	AMD	89-11-028	356-18-060	AMD-C	89-03-056
332-130-030	AMD-C	89-08-021	356-18-060	AMD	89-06-028

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
360-12-015	AMD-P	89-19-059	360-52-110	NEW	89-04-015
360-12-015	AMD	89-22-045	365-40-020	AMD-P	89-13-078
360-12-110	AMD-P	89-19-057	365-40-020	AMD	89-21-056
360-12-110	AMD	89-23-078	365-40-041	AMD-P	89-13-078
360-15-010	NEW-P	89-22-066	365-40-041	AMD	89-21-056
360-15-020	NEW-P	89-22-066	365-40-051	AMD-P	89-13-078
360-15-030	NEW-P	89-22-066	365-40-051	AMD	89-21-056
360-15-040	NEW-P	89-22-066	365-40-061	REP-P	89-13-078
360-15-050	NEW-P	89-22-066	365-40-061	REP	89-21-056
360-15-060	NEW-P	89-22-066	365-40-071	AMD-P	89-13-078
360-15-070	NEW-P	89-22-066	365-40-071	AMD	89-21-056
360-16-096	AMD-P	89-19-058	365-140-040	AMD-P	89-18-052
360-16-096	AMD	89-22-046	365-140-040	AMD	89-22-032
360-16-250	REP	89-04-016	381	AMD	89-08-018
360-16-265	NEW	89-04-016	383-07-050	AMD-P	89-14-119
360-16A-010	NEW-P	89-22-067	383-07-050	AMD-E	89-14-120
360-16A-020	NEW-P	89-22-067	383-07-050	AMD	89-19-006
360-16A-030	NEW-P	89-22-067	383-07-060	AMD-P	89-14-119
360-16A-040	NEW-P	89-22-067	383-07-060	AMD-E	89-14-120
360-16A-050	NEW-P	89-22-067	383-07-060	AMD	89-19-006
360-16A-060	NEW-P	89-22-067	383-07-080	AMD-P	89-14-119
360-16A-070	NEW-P	89-22-067	383-07-080	AMD-E	89-14-120
360-16A-080	NEW-P	89-22-067	383-07-080	AMD	89-19-006
360-16A-090	NEW-P	89-22-067	383-07-090	AMD-P	89-14-119
360-16A-100	NEW-P	89-22-067	383-07-090	AMD-E	89-14-120
360-17-055	AMD-C	89-04-023	383-07-090	AMD	89-19-006
360-17-055	AMD-P	89-08-062	383-07-100	AMD-P	89-14-119
360-17-055	AMD	89-12-011	383-07-100	AMD-E	89-14-120
360-18-020	AMD	89-04-015	383-07-100	AMD	89-19-006
360-20-100	AMD-P	89-19-055	383-07-110	REP-P	89-14-119
360-20-100	AMD	89-22-047	383-07-110	REP-E	89-14-120
360-32-060	NEW-P	89-19-056	383-07-110	REP	89-19-006
360-32-060	NEW	89-22-048	383-07-120	AMD-P	89-14-119
360-36-010	AMD-P	89-12-082	383-07-120	AMD-E	89-14-120
360-36-010	AMD	89-17-023	383-07-120	AMD	89-19-006
360-36-210	AMD-P	89-12-082	383-07-130	AMD-P	89-14-119
360-36-210	AMD	89-17-023	383-07-130	AMD-E	89-14-120
360-36-220	REP-P	89-12-082	383-07-130	AMD	89-19-006
360-36-220	REP	89-17-023	388-07-005	AMD-P	89-09-030
360-36-240	REP-P	89-12-082	388-07-005	AMD	89-12-078
360-36-240	REP	89-17-023	388-08-00201	REP-E	89-14-099
360-36-250	AMD-P	89-12-082	388-08-00201	REP-P	89-22-080
360-36-250	AMD	89-17-023	388-08-00201	REP-E	89-22-087
360-36-260	AMD-P	89-12-082	388-08-00201	REP-C	89-23-062
360-36-260	AMD	89-17-023	388-08-00401	REP-E	89-14-099
360-36-270	AMD-P	89-12-082	388-08-00401	REP-P	89-22-080
360-36-270	AMD	89-17-023	388-08-00401	REP-E	89-22-087
360-36-410	AMD-P	89-12-082	388-08-00401	REP-C	89-23-062
360-36-410	AMD	89-17-023	388-08-006	REP-E	89-14-099
360-36-420	AMD-P	89-12-082	388-08-006	REP-P	89-22-080
360-36-420	AMD	89-17-023	388-08-006	REP-E	89-22-087
360-36-430	AMD-P	89-12-082	388-08-006	REP-C	89-23-062
360-36-430	AMD	89-17-023	388-08-00601	REP-E	89-14-099
360-36-440	AMD-P	89-12-082	388-08-00601	REP-P	89-22-080
360-36-440	AMD	89-17-023	388-08-00601	REP-E	89-22-087
360-36-500	NEW-P	89-12-082	388-08-00601	REP-C	89-23-062
360-36-500	NEW	89-17-023	388-08-010	REP-E	89-14-099
360-44-010	AMD-P	89-04-058	388-08-010	REP-P	89-22-080
360-44-010	AMD	89-09-020	388-08-010	REP-E	89-22-087
360-44-040	AMD-P	89-04-058	388-08-010	REP-C	89-23-062
360-44-040	AMD	89-09-020	388-08-405	REP-E	89-14-099
360-44-050	AMD-P	89-04-058	388-08-405	REP-P	89-22-080
360-44-050	AMD	89-09-020	388-08-405	REP-E	89-22-087
360-44-060	AMD-P	89-04-058	388-08-405	REP-C	89-23-062
360-44-060	AMD	89-09-020	388-08-406	REP-E	89-14-099
360-44-080	AMD-P	89-04-058	388-08-406	REP-P	89-22-080
360-44-080	AMD	89-09-020	388-08-406	REP-E	89-22-087
360-44-090	AMD-P	89-04-058	388-08-406	REP-C	89-23-062
360-44-090	AMD	89-09-020	388-08-409	REP-E	89-14-099
360-44-100	AMD-P	89-04-058	388-08-409	REP-P	89-22-080
360-44-100	AMD	89-09-020	388-08-409	REP-E	89-22-087
360-44-130	AMD-P	89-04-058	388-08-409	REP-C	89-23-062
360-44-130	AMD	89-09-020	388-08-410	NEW-E	89-14-099
360-44-140	AMD-P	89-04-058	388-08-410	NEW-P	89-22-080
360-44-140	AMD	89-09-020	388-08-410	NEW-E	89-22-087
360-44-990	AMD-P	89-04-058	388-08-410	NEW-C	89-23-062
360-44-990	AMD	89-09-020	388-08-413	AMD-E	89-14-099

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
388-08-545	NEW-C	89-23-062	388-13-110	AMD-P	89-22-081
388-08-550	REP-E	89-14-099	388-13-110	AMD-E	89-22-090
388-08-550	REP-P	89-22-080	388-13-110	AMD-C	89-23-063
388-08-550	REP-E	89-22-087	388-13-120	AMD-E	89-14-098
388-08-550	REP-C	89-23-062	388-13-120	AMD-P	89-22-081
388-08-555	NEW-E	89-14-099	388-13-120	AMD-E	89-22-090
388-08-555	NEW-P	89-22-080	388-13-120	AMD-C	89-23-063
388-08-555	NEW-E	89-22-087	388-14-260	AMD-E	89-14-098
388-08-555	NEW-C	89-23-062	388-14-260	AMD-P	89-22-081
388-08-560	REP-E	89-14-099	388-14-260	AMD-E	89-22-090
388-08-560	REP-P	89-22-080	388-14-260	AMD-C	89-23-063
388-08-560	REP-E	89-22-087	388-14-270	AMD-E	89-07-052
388-08-560	REP-C	89-23-062	388-14-270	AMD-P	89-07-093
388-08-565	NEW-E	89-14-099	388-14-270	AMD	89-10-070
388-08-565	NEW-P	89-22-080	388-14-270	AMD-E	89-14-098
388-08-565	NEW-E	89-22-087	388-14-270	AMD-P	89-22-081
388-08-565	NEW-C	89-23-062	388-14-270	AMD-E	89-22-090
388-08-575	NEW-P	89-22-080	388-14-270	AMD-E	89-22-090
388-08-575	NEW-E	89-22-087	388-14-270	AMD-C	89-23-063
388-08-575	NEW-C	89-23-062	388-14-270	AMD-P	89-22-081
388-08-575	NEW-E	89-22-087	388-14-275	NEW-E	89-07-052
388-08-575	NEW-C	89-23-062	388-14-275	NEW-P	89-07-093
388-08-580	REP-E	89-14-099	388-14-275	NEW	89-10-070
388-08-580	REP-P	89-22-080	388-14-385	AMD-E	89-14-098
388-08-580	REP-E	89-22-087	388-14-385	AMD-P	89-22-081
388-08-580	REP-C	89-23-062	388-14-385	AMD-E	89-22-090
388-08-590	REP-E	89-14-099	388-14-385	AMD-C	89-23-063
388-08-590	REP-P	89-22-080	388-14-390	AMD-E	89-14-098
388-08-590	REP-E	89-22-087	388-14-390	AMD-P	89-22-081
388-08-590	REP-C	89-23-062	388-14-390	AMD-E	89-22-090
388-09-010	REP-E	89-14-098	388-14-390	AMD-C	89-23-063
388-09-010	REP-P	89-22-080	388-14-415	AMD-E	89-14-098
388-09-010	REP-E	89-22-087	388-14-415	AMD-P	89-22-081
388-09-010	REP-C	89-23-062	388-14-415	AMD-E	89-22-090
388-09-020	REP-E	89-14-098	388-14-415	AMD-C	89-23-063
388-09-020	REP-P	89-22-080	388-15-130	AMD-P	89-03-048
388-09-020	REP-E	89-22-087	388-15-130	AMD	89-07-024
388-09-020	REP-C	89-23-062	388-15-130	AMD-P	89-14-078
388-09-030	REP-E	89-14-098	388-15-132	AMD-P	89-03-048
388-09-030	REP-P	89-22-080	388-15-132	AMD	89-07-024
388-09-030	REP-E	89-22-087	388-15-134	AMD-P	89-03-048
388-09-030	REP-C	89-23-062	388-15-134	AMD	89-07-024
388-09-030	REP-E	89-22-087	388-15-207	AMD-P	89-14-078
388-09-040	REP-E	89-14-098	388-15-207	AMD-E	89-14-086
388-09-040	REP-P	89-22-080	388-15-207	AMD	89-18-026
388-09-040	REP-E	89-22-087	388-15-208	AMD-P	89-10-046
388-09-040	REP-C	89-23-062	388-15-208	AMD-E	89-10-049
388-11-100	AMD-E	89-14-098	388-15-208	AMD	89-13-084
388-11-100	AMD-P	89-22-081	388-15-209	AMD-P	89-14-078
388-11-100	AMD-E	89-22-090	388-15-209	AMD-E	89-14-086
388-11-100	AMD-C	89-23-063	388-15-209	AMD	89-18-026
388-11-105	REP-E	89-14-098	388-15-212	AMD-P	89-10-046
388-11-105	REP-P	89-22-081	388-15-212	AMD-E	89-10-049
388-11-105	REP-E	89-22-090	388-15-212	AMD	89-13-084
388-11-105	AMD-C	89-23-063	388-15-215	AMD-P	89-14-078
388-11-180	AMD-E	89-14-098	388-15-215	AMD-E	89-14-086
388-11-180	AMD-E	89-22-081	388-15-215	AMD-E	89-14-086
388-11-180	AMD-P	89-22-081	388-15-216	AMD	89-18-026
388-11-180	AMD-E	89-22-090	388-15-216	NEW-P	89-14-078
388-11-180	AMD-C	89-23-063	388-15-216	NEW-E	89-14-086
388-11-185	REP-E	89-14-098	388-15-216	NEW	89-18-026
388-11-185	REP-P	89-22-081	388-15-217	AMD-P	89-14-078
388-11-185	REP-E	89-22-090	388-15-217	AMD-E	89-14-086
388-11-185	REP-C	89-23-063	388-15-217	AMD	89-18-026
388-13-050	AMD-E	89-14-098	388-15-810	NEW-P	89-14-080
388-13-050	AMD-P	89-22-081	388-15-810	NEW-E	89-14-085
388-13-050	AMD-E	89-22-090	388-15-810	NEW	89-18-029
388-13-050	AMD-C	89-23-063	388-15-820	NEW-P	89-14-080
388-13-060	AMD-E	89-14-098	388-15-820	NEW-E	89-14-085
388-13-060	AMD-P	89-22-081	388-15-820	NEW	89-18-029
388-13-060	AMD-E	89-22-090	388-15-830	NEW-P	89-14-080
388-13-060	AMD-C	89-23-063	388-15-830	NEW-E	89-14-085
388-13-070	AMD-E	89-14-098	388-15-830	NEW	89-18-029
388-13-070	AMD-P	89-22-081	388-15-840	NEW-P	89-14-080
388-13-070	AMD-E	89-22-090	388-15-840	NEW-E	89-14-085
388-13-070	AMD-C	89-23-063	388-15-840	NEW	89-18-029
388-13-080	REP-E	89-14-098	388-15-850	NEW-P	89-14-080
388-13-080	REP-P	89-22-081	388-15-850	NEW-E	89-14-085
388-13-080	REP-E	89-22-090	388-15-850	NEW	89-18-029
388-13-080	REP-C	89-23-063	388-15-860	NEW-P	89-14-080
388-13-110	AMD-E	89-14-098	388-15-860	NEW-E	89-14-085

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
388-40-001	NEW-P	89-03-026	388-49-020	AMD-P	89-14-053
388-40-001	NEW-E	89-03-027	388-49-020	AMD-E	89-14-065
388-40-001	REP-E	89-06-034	388-49-020	AMD	89-18-035
388-40-001	REP-E	89-06-051	388-49-030	AMD-P	89-03-072
388-40-002	NEW-P	89-03-049	388-49-030	AMD	89-07-001
388-40-002	NEW-E	89-03-050	388-49-070	AMD-P	89-14-054
388-40-002	REP-E	89-06-034	388-49-070	AMD-E	89-14-067
388-40-002	REP-E	89-06-051	388-49-070	AMD	89-18-027
388-40-010	AMD-P	89-14-081	388-49-110	AMD-P	89-03-072
388-40-010	AMD-E	89-14-084	388-49-110	AMD	89-07-001
388-40-010	AMD	89-18-025	388-49-190	AMD-P	89-03-073
388-40-020	AMD-P	89-14-081	388-49-190	AMD	89-07-001
388-40-020	AMD-E	89-14-084	388-49-191	REP	89-03-053
388-40-020	AMD	89-18-025	388-49-191	REP-E	89-03-054
388-40-030	AMD-E	89-06-034	388-49-250	AMD	89-05-032
388-40-030	AMD-P	89-06-048	388-49-310	AMD-P	89-03-073
388-40-030	AMD-E	89-06-051	388-49-310	AMD	89-07-001
388-40-030	AMD-E	89-12-014	388-49-310	AMD-P	89-12-075
388-40-030	AMD-P	89-14-081	388-49-310	AMD	89-16-106
388-40-030	AMD-E	89-14-084	388-49-320	AMD-P	89-11-099
388-40-030	AMD	89-18-025	388-49-320	AMD	89-16-063
388-40-040	AMD-P	89-14-081	388-49-320	AMD-E	89-16-071
388-40-040	AMD-E	89-14-084	388-49-330	AMD-P	89-11-056
388-40-040	AMD	89-18-025	388-49-330	AMD	89-16-107
388-40-050	AMD-E	89-06-034	388-49-360	AMD-P	89-15-055
388-40-050	AMD-P	89-06-048	388-49-360	AMD-E	89-15-056
388-40-050	AMD-E	89-06-051	388-49-360	AMD	89-19-025
388-40-050	AMD-E	89-12-014	388-49-370	NEW-P	89-15-055
388-40-050	AMD-P	89-14-081	388-49-370	NEW-E	89-15-056
388-40-050	AMD-E	89-14-084	388-49-370	NEW	89-19-025
388-40-050	AMD	89-18-025	388-49-380	AMD-P	89-15-055
388-40-050	AMD-P	89-21-091	388-49-380	AMD-E	89-15-056
388-40-050	AMD	89-24-037	388-49-380	AMD	89-19-025
388-40-055	NEW-P	89-14-081	388-49-410	AMD-P	89-14-055
388-40-055	NEW-E	89-14-084	388-49-410	AMD-E	89-14-066
388-40-055	NEW	89-18-025	388-49-410	AMD	89-18-030
388-40-060	AMD-P	89-14-081	388-49-420	AMD-P	89-03-073
388-40-060	AMD-E	89-14-084	388-49-420	AMD	89-07-001
388-40-060	AMD	89-18-025	388-49-430	AMD-P	89-14-055
388-40-080	AMD-E	89-06-034	388-49-430	AMD-E	89-14-066
388-40-080	AMD-P	89-06-048	388-49-430	AMD	89-18-030
388-40-080	AMD-E	89-06-051	388-49-450	AMD	89-05-032
388-40-080	AMD-E	89-12-014	388-49-450	AMD-E	89-08-051
388-40-080	AMD-P	89-14-081	388-49-450	AMD-P	89-08-100
388-40-080	AMD-E	89-14-084	388-49-450	AMD	89-11-101
388-40-080	AMD	89-18-025	388-49-460	AMD	89-05-032
388-40-090	AMD-E	89-06-034	388-49-460	AMD-P	89-21-092
388-40-090	AMD-P	89-06-048	388-49-460	AMD	89-24-040
388-40-090	AMD-E	89-06-051	388-49-470	AMD-E	89-08-051
388-40-090	AMD-E	89-12-014	388-49-470	AMD-P	89-08-100
388-40-090	AMD-P	89-14-081	388-49-470	AMD	89-11-101
388-40-090	AMD-E	89-14-084	388-49-470	AMD	89-11-101
388-40-090	AMD	89-18-025	388-49-470	AMD-P	89-21-092
388-40-091	NEW-E	89-06-034	388-49-480	AMD-P	89-03-074
388-40-091	NEW-P	89-06-048	388-49-480	AMD	89-07-001
388-40-091	NEW-E	89-06-051	388-49-500	AMD-P	89-20-052
388-40-091	NEW-E	89-12-014	388-49-500	AMD-E	89-20-053
388-40-091	NEW-P	89-14-081	388-49-500	AMD	89-23-083
388-40-091	NEW-E	89-14-084	388-49-505	AMD-P	89-20-052
388-40-091	NEW	89-18-025	388-49-505	AMD-E	89-20-053
388-40-100	AMD-E	89-06-034	388-49-505	AMD	89-23-083
388-40-100	AMD-P	89-06-048	388-49-510	AMD-P	89-20-052
388-40-100	AMD-E	89-06-051	388-49-510	AMD-E	89-20-053
388-40-100	AMD-E	89-12-014	388-49-510	AMD	89-23-083
388-40-100	AMD-P	89-14-081	388-49-550	AMD-P	89-02-069
388-40-100	AMD-E	89-14-084	388-49-550	AMD	89-05-031
388-40-100	AMD	89-18-025	388-49-550	AMD-P	89-19-074
388-40-110	AMD-P	89-14-081	388-49-550	AMD-E	89-20-029
388-40-110	AMD-E	89-14-084	388-49-550	AMD	89-22-132
388-40-110	AMD	89-18-025	388-49-560	AMD-P	89-23-107
388-49	AMD-C	89-18-055	388-49-570	AMD-P	89-14-056
388-49-015	AMD-P	89-03-071	388-49-570	AMD	89-18-059
388-49-015	AMD	89-07-001	388-49-660	AMD-P	89-08-101
388-49-015	AMD-P	89-15-054	388-49-660	AMD	89-12-035
388-49-015	AMD	89-18-058	388-49-660	AMD-P	89-20-070
388-49-020	AMD-P	89-03-071	388-49-660	AMD	89-23-082
388-49-020	AMD	89-07-001	388-49-670	AMD-P	89-09-032

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
388-76-370	AMD-P	89-23-031	388-84-110	AMD-P	89-21-095
388-76-380	AMD-P	89-23-031	388-84-110	AMD	89-24-035
388-76-390	AMD-P	89-23-031	388-84-115	AMD-P	89-07-011
388-76-400	AMD-P	89-23-031	388-84-115	AMD-E	89-07-030
388-76-410	AMD-P	89-23-031	388-84-115	AMD	89-11-002
388-76-420	AMD-P	89-23-031	388-86-005	AMD-P	89-10-020
388-76-430	AMD-P	89-23-031	388-86-005	AMD-E	89-10-024
388-76-435	NEW-P	89-23-031	388-86-005	AMD	89-13-005
388-76-440	AMD-P	89-23-031	388-86-005	AMD-P	89-13-082
388-76-450	AMD-P	89-23-031	388-86-005	AMD-E	89-14-059
388-76-460	AMD-P	89-23-031	388-86-005	AMD	89-18-033
388-76-465	AMD-P	89-23-031	388-86-008	AMD-P	89-21-094
388-76-475	NEW-P	89-23-031	388-86-008	AMD	89-24-038
388-76-480	AMD-P	89-23-031	388-86-00901	AMD-P	89-24-033
388-76-490	AMD-P	89-23-031	388-86-00901	AMD-E	89-24-042
388-76-520	AMD-P	89-23-031	388-86-02301	REP-P	89-13-082
388-76-530	AMD-P	89-23-031	388-86-02301	REP-E	89-14-059
388-77-005	AMD	89-03-053	388-86-02301	REP	89-18-033
388-77-005	AMD-E	89-03-054	388-86-024	NEW-E	89-16-066
388-77-230	AMD-P	89-09-033	388-86-024	NEW-P	89-16-069
388-77-230	AMD	89-12-036	388-86-024	NEW-C	89-18-069
388-77-240	AMD-P	89-09-033	388-86-024	NEW	89-22-035
388-77-240	AMD	89-12-036	388-86-047	NEW-P	89-14-082
388-77-255	AMD-P	89-20-071	388-86-047	NEW-E	89-14-083
388-77-255	AMD	89-23-084	388-86-047	NEW	89-18-034
388-77-610	AMD	89-03-053	388-86-050	AMD-P	89-22-083
388-77-610	AMD-E	89-03-054	388-86-050	AMD-E	89-22-084
388-77-820	AMD	89-03-053	388-86-085	AMD-P	89-20-072
388-77-820	AMD-E	89-03-054	388-86-085	AMD-E	89-20-075
388-77-820	AMD-P	89-17-127	388-86-085	AMD	89-23-081
388-77-820	AMD-E	89-18-007	388-86-087	NEW-P	89-14-058
388-77-820	AMD	89-21-048	388-86-087	NEW-E	89-14-063
388-78-210	AMD-P	89-05-062	388-86-087	NEW	89-18-031
388-78-210	AMD	89-08-050	388-86-090	AMD	89-05-029
388-80-005	AMD-E	89-14-098	388-86-100	AMD	89-08-052
388-81-043	AMD	89-05-029	388-87-005	AMD-P	89-13-082
388-81-052	AMD-P	89-14-057	388-87-005	AMD-E	89-14-059
388-81-052	AMD-E	89-14-064	388-87-005	AMD	89-18-033
388-81-052	AMD	89-18-032	388-87-010	AMD-P	89-16-062
388-81-060	AMD	89-05-029	388-87-010	AMD-C	89-18-068
388-81-070	NEW-P	89-18-053	388-87-010	AMD	89-22-036
388-81-070	NEW-E	89-18-060	388-87-011	AMD-P	89-07-037
388-81-070	NEW	89-22-033	388-87-011	AMD-E	89-07-039
388-82-010	AMD-P	89-24-034	388-87-011	AMD	89-11-004
388-82-010	AMD-E	89-24-043	388-87-027	AMD-P	89-22-083
388-82-140	NEW	89-05-029	388-87-027	AMD-E	89-22-084
388-82-140	AMD-P	89-08-044	388-87-035	AMD-P	89-20-072
388-82-140	AMD-E	89-08-053	388-87-035	AMD-E	89-20-075
388-82-140	AMD	89-11-057	388-87-035	AMD	89-23-081
388-82-140	AMD-P	89-21-093	388-87-04701	REP-P	89-13-082
388-82-140	AMD	89-24-039	388-87-04701	REP-E	89-14-059
388-83-012	AMD-P	89-10-047	388-87-04701	REP	89-18-033
388-83-012	AMD-E	89-10-048	388-87-060	AMD-P	89-07-012
388-83-012	AMD	89-12-080	388-87-060	AMD-E	89-07-013
388-83-013	NEW-P	89-10-047	388-87-060	AMD	89-11-003
388-83-013	NEW-E	89-10-048	388-87-067	NEW-P	89-14-082
388-83-013	NEW	89-12-080	388-87-067	NEW-E	89-14-083
388-83-013	AMD-P	89-23-105	388-87-067	NEW	89-18-034
388-83-013	AMD-E	89-23-109	388-87-070	AMD-P	89-22-083
388-83-014	NEW-P	89-10-047	388-87-070	AMD-E	89-22-084
388-83-014	NEW-E	89-10-048	388-88-080	AMD-P	89-07-094
388-83-014	NEW	89-12-080	388-88-080	AMD	89-11-017
388-83-015	AMD-P	89-08-045	388-88-095	AMD	89-06-050
388-83-015	AMD-E	89-08-048	388-88-097	NEW	89-06-050
388-83-015	AMD	89-11-057	388-88-098	NEW-P	89-07-094
388-83-025	AMD-P	89-23-106	388-88-098	NEW	89-11-017
388-83-032	AMD-P	89-08-044	388-88-099	NEW-P	89-07-094
388-83-032	AMD-E	89-08-053	388-88-099	NEW	89-11-017
388-83-032	AMD	89-11-057	388-88-101	AMD-P	89-07-094
388-83-032	AMD-P	89-16-060	388-88-101	AMD	89-11-017
388-83-032	AMD-E	89-16-067	388-92-025	AMD-P	89-21-034
388-83-032	AMD-C	89-18-066	388-92-025	AMD-E	89-21-035
388-83-032	AMD	89-22-034	388-92-025	AMD	89-24-036
388-83-033	NEW-P	89-16-060	388-92-036	NEW-P	89-21-034
388-83-033	NEW-E	89-16-067	388-92-036	NEW-E	89-21-035
388-83-033	NEW-C	89-18-066	388-92-036	NEW	89-24-036
388-83-033	NEW	89-22-034	388-92-045	AMD-P	89-21-034

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
388-100-005	AMD	89-22-037	390-16-155	AMD-P	89-17-139
388-320	AMD-E	89-14-099	390-16-155	AMD	89-20-068
388-320	AMD-P	89-22-080	390-16-302	REP-P	89-17-139
388-320	AMD-E	89-22-087	390-16-302	REP	89-20-068
388-320	AMD-C	89-23-062	390-16-306	REP-P	89-17-139
388-320-340	NEW-E	89-14-099	390-16-306	REP	89-20-068
388-320-340	NEW-P	89-22-080	391-08-001	AMD-E	89-17-010
388-320-340	NEW-E	89-22-087	391-08-001	AMD-P	89-23-021
388-320-340	NEW-C	89-23-062	391-08-001	AMD-E	89-24-024
388-320-350	NEW-E	89-14-099	391-08-003	RE-AD-E	89-17-010
388-320-350	NEW-P	89-22-080	391-08-003	RE-AD-P	89-23-021
388-320-350	NEW-E	89-22-087	391-08-003	RE-AD-E	89-24-024
388-320-350	NEW-C	89-23-062	391-08-007	RE-AD-E	89-17-010
388-320-360	NEW-E	89-14-099	391-08-007	RE-AD-P	89-23-021
388-320-360	NEW-P	89-22-080	391-08-007	RE-AD-E	89-24-024
388-320-360	NEW-E	89-22-087	391-08-010	RE-AD-E	89-17-010
388-320-360	NEW-C	89-23-062	391-08-010	RE-AD-P	89-23-021
388-320-370	NEW-E	89-14-099	391-08-010	RE-AD-E	89-24-024
388-320-370	NEW-P	89-22-080	391-08-020	RE-AD-E	89-17-010
388-320-370	NEW-E	89-22-087	391-08-020	RE-AD-P	89-23-021
388-320-370	NEW-C	89-23-062	391-08-020	RE-AD-E	89-24-024
388-320-400	NEW-E	89-14-099	391-08-030	RE-AD-E	89-17-010
388-320-400	NEW-P	89-22-080	391-08-030	RE-AD-P	89-23-021
388-320-400	NEW-E	89-22-087	391-08-030	RE-AD-E	89-24-024
388-320-400	NEW-C	89-23-062	391-08-040	RE-AD-E	89-17-010
388-320-410	NEW-E	89-14-099	391-08-040	RE-AD-P	89-23-021
388-320-410	NEW-P	89-22-080	391-08-040	RE-AD-E	89-24-024
388-320-410	NEW-E	89-22-087	391-08-100	RE-AD-E	89-17-010
388-320-410	NEW-C	89-23-062	391-08-100	RE-AD-P	89-23-021
388-320-500	NEW-E	89-14-099	391-08-100	RE-AD-E	89-24-024
388-320-500	NEW-P	89-22-080	391-08-110	REP-E	89-17-010
388-320-500	NEW-E	89-22-087	391-08-110	REP-P	89-23-021
388-320-500	NEW-C	89-23-062	391-08-110	REP-E	89-24-024
388-330-010	NEW-P	89-02-067	391-08-120	AMD-E	89-17-010
388-330-010	NEW	89-07-096	391-08-120	AMD-P	89-23-021
388-330-020	NEW-P	89-02-067	391-08-120	AMD-E	89-24-024
388-330-020	NEW	89-07-096	391-08-160	REP-E	89-17-010
388-330-030	NEW-P	89-02-067	391-08-160	REP-P	89-23-021
388-330-030	NEW	89-07-096	391-08-160	REP-E	89-24-024
388-330-040	NEW-P	89-02-067	391-08-180	AMD-E	89-17-010
388-330-040	NEW	89-07-096	391-08-180	AMD-P	89-23-021
388-330-050	NEW-P	89-02-067	391-08-180	AMD-E	89-24-024
388-330-050	NEW	89-07-096	391-08-200	REP-E	89-17-010
388-330-060	NEW-P	89-02-067	391-08-200	REP-P	89-23-021
388-330-060	NEW	89-07-096	391-08-200	REP-E	89-24-024
390-16-011	AMD-P	89-17-139	391-08-210	REP-E	89-17-010
390-16-011	AMD	89-20-068	391-08-210	REP-P	89-23-021
390-16-012	NEW-P	89-17-139	391-08-210	REP-E	89-24-024
390-16-012	NEW	89-20-068	391-08-230	RE-AD-E	89-17-010
390-16-031	AMD-P	89-17-139	391-08-230	RE-AD-P	89-23-021
390-16-031	AMD	89-20-068	391-08-230	RE-AD-E	89-24-024
390-16-032	NEW-P	89-17-139	391-08-300	AMD-E	89-17-010
390-16-032	NEW	89-20-068	391-08-300	AMD-P	89-23-021
390-16-033	AMD-P	89-17-139	391-08-300	AMD-E	89-24-024
390-16-033	AMD	89-20-068	391-08-310	RE-AD-E	89-17-010
390-16-036	REP-P	89-17-139	391-08-310	RE-AD-P	89-23-021
390-16-036	REP	89-20-068	391-08-310	RE-AD-E	89-24-024
390-16-041	AMD-P	89-17-139	391-08-315	NEW-E	89-17-010
390-16-041	AMD	89-20-068	391-08-315	NEW-P	89-23-021
390-16-042	NEW-P	89-17-139	391-08-315	NEW-E	89-24-024
390-16-042	NEW	89-20-068	391-08-500	REP-E	89-17-010
390-16-050	AMD-P	89-17-139	391-08-500	REP-P	89-23-021
390-16-050	AMD	89-20-068	391-08-500	REP-E	89-24-024
390-16-055	AMD-P	89-17-139	391-08-510	REP-E	89-17-010
390-16-055	AMD	89-20-068	391-08-510	REP-P	89-23-021
390-16-060	AMD-P	89-17-139	391-08-510	REP-E	89-24-024
390-16-060	AMD	89-20-068	391-08-600	REP-E	89-17-010
390-16-111	AMD-P	89-17-139	391-08-600	REP-P	89-23-021
390-16-111	AMD	89-20-068	391-08-600	REP-E	89-24-024
390-16-115	AMD-P	89-17-139	391-08-610	RE-AD-E	89-17-010
390-16-115	AMD	89-20-068	391-08-610	RE-AD-P	89-23-021
390-16-120	AMD-P	89-17-139	391-08-610	RE-AD-E	89-24-024
390-16-120	AMD	89-20-068	391-08-630	AMD-E	89-17-010
390-16-121	NEW-P	89-17-139	391-08-630	AMD-P	89-23-021
390-16-121	NEW	89-20-068	391-08-630	AMD-E	89-24-024
390-16-125	AMD-P	89-17-139	391-08-800	RE-AD-E	89-17-010
390-16-125	AMD	89-20-068	391-08-800	RE-AD-P	89-23-021

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
391-25-252	RE-AD-P 89-23-022	391-25-670	RE-AD-E 89-17-011	391-45-090	RE-AD-E 89-24-027
391-25-252	RE-AD-E 89-24-025	391-25-670	RE-AD-P 89-23-022	391-45-110	RE-AD-E 89-17-013
391-25-253	RE-AD-E 89-17-011	391-25-670	RE-AD-E 89-24-025	391-45-110	RE-AD-P 89-23-024
391-25-253	RE-AD-P 89-23-022	391-35-001	AMD-E 89-17-012	391-45-110	RE-AD-E 89-24-027
391-25-253	RE-AD-E 89-24-025	391-35-001	AMD-P 89-23-023	391-45-130	RE-AD-E 89-17-013
391-25-270	RE-AD-E 89-17-011	391-35-001	AMD-E 89-24-026	391-45-130	RE-AD-P 89-23-024
391-25-270	RE-AD-P 89-23-022	391-35-002	RE-AD-E 89-17-012	391-45-130	RE-AD-E 89-24-027
391-25-270	RE-AD-E 89-24-025	391-35-002	RE-AD-P 89-23-023	391-45-170	AMD-E 89-17-013
391-25-290	RE-AD-E 89-17-011	391-35-002	RE-AD-E 89-24-026	391-45-170	AMD-P 89-23-024
391-25-290	RE-AD-P 89-23-022	391-35-010	RE-AD-E 89-17-012	391-45-170	AMD-E 89-24-027
391-25-290	RE-AD-E 89-24-025	391-35-010	RE-AD-P 89-23-023	391-45-190	RE-AD-E 89-17-013
391-25-299	RE-AD-E 89-17-011	391-35-010	RE-AD-E 89-24-026	391-45-190	RE-AD-P 89-23-024
391-25-299	RE-AD-P 89-23-022	391-35-020	RE-AD-E 89-17-012	391-45-190	RE-AD-E 89-24-027
391-25-299	RE-AD-E 89-24-025	391-35-020	RE-AD-P 89-23-023	391-45-210	RE-AD-E 89-17-013
391-25-310	RE-AD-E 89-17-011	391-35-020	RE-AD-E 89-24-026	391-45-210	RE-AD-P 89-23-024
391-25-310	RE-AD-P 89-23-022	391-35-030	RE-AD-E 89-17-012	391-45-210	RE-AD-E 89-24-027
391-25-310	RE-AD-E 89-24-025	391-35-030	RE-AD-P 89-23-023	391-45-230	RE-AD-E 89-17-013
391-25-350	AMD-E 89-17-011	391-35-030	RE-AD-E 89-24-026	391-45-230	RE-AD-P 89-23-024
391-25-350	AMD-P 89-23-022	391-35-050	RE-AD-E 89-17-012	391-45-230	RE-AD-E 89-24-027
391-25-350	AMD-E 89-24-025	391-35-050	RE-AD-P 89-23-023	391-45-250	RE-AD-E 89-17-013
391-25-370	RE-AD-E 89-17-011	391-35-050	RE-AD-E 89-24-026	391-45-250	RE-AD-P 89-23-024
391-25-370	RE-AD-P 89-23-022	391-35-070	RE-AD-E 89-17-012	391-45-250	RE-AD-E 89-24-027
391-25-370	RE-AD-E 89-24-025	391-35-070	RE-AD-P 89-23-023	391-45-260	AMD-E 89-17-013
391-25-390	RE-AD-E 89-17-011	391-35-070	RE-AD-E 89-24-026	391-45-260	AMD-P 89-23-024
391-25-390	RE-AD-P 89-23-022	391-35-080	NEW-E 89-17-012	391-45-260	AMD-E 89-24-027
391-25-390	RE-AD-E 89-24-025	391-35-080	NEW-P 89-23-023	391-45-270	AMD-E 89-17-013
391-25-391	RE-AD-E 89-17-011	391-35-080	NEW-E 89-24-026	391-45-270	AMD-P 89-23-024
391-25-391	RE-AD-P 89-23-022	391-35-090	RE-AD-E 89-17-012	391-45-270	AMD-E 89-24-027
391-25-391	RE-AD-E 89-24-025	391-35-090	RE-AD-P 89-23-023	391-45-290	RE-AD-E 89-17-013
391-25-410	RE-AD-E 89-17-011	391-35-090	RE-AD-E 89-24-026	391-45-290	RE-AD-P 89-23-024
391-25-410	RE-AD-P 89-23-022	391-35-099	RE-AD-E 89-17-012	391-45-290	RE-AD-E 89-24-027
391-25-410	RE-AD-E 89-24-025	391-35-099	RE-AD-P 89-23-023	391-45-310	RE-AD-E 89-17-013
391-25-412	RE-AD-E 89-17-011	391-35-099	RE-AD-E 89-24-026	391-45-310	RE-AD-P 89-23-024
391-25-412	RE-AD-P 89-23-022	391-35-110	RE-AD-E 89-17-012	391-45-310	RE-AD-E 89-24-027
391-25-412	RE-AD-E 89-24-025	391-35-110	RE-AD-P 89-23-023	391-45-330	RE-AD-E 89-17-013
391-25-413	RE-AD-E 89-17-011	391-35-110	RE-AD-E 89-24-026	391-45-330	RE-AD-P 89-23-024
391-25-413	RE-AD-P 89-23-022	391-35-130	RE-AD-E 89-17-012	391-45-330	RE-AD-E 89-24-027
391-25-413	RE-AD-E 89-24-025	391-35-130	RE-AD-P 89-23-023	391-45-350	RE-AD-E 89-17-013
391-25-430	RE-AD-E 89-17-011	391-35-130	RE-AD-E 89-24-026	391-45-350	RE-AD-P 89-23-024
391-25-430	RE-AD-P 89-23-022	391-35-170	AMD-E 89-17-012	391-45-350	RE-AD-E 89-24-027
391-25-430	RE-AD-E 89-24-025	391-35-170	AMD-P 89-23-023	391-45-370	RE-AD-E 89-17-013
391-25-450	RE-AD-E 89-17-011	391-35-170	AMD-E 89-24-026	391-45-370	RE-AD-P 89-23-024
391-25-450	RE-AD-P 89-23-022	391-35-190	RE-AD-E 89-17-012	391-45-370	RE-AD-E 89-24-027
391-25-450	RE-AD-E 89-24-025	391-35-190	RE-AD-P 89-23-023	391-45-390	RE-AD-E 89-17-013
391-25-470	RE-AD-E 89-17-011	391-35-190	RE-AD-E 89-24-026	391-45-390	RE-AD-P 89-23-024
391-25-470	RE-AD-P 89-23-022	391-35-210	RE-AD-E 89-17-012	391-45-390	RE-AD-E 89-24-027
391-25-470	RE-AD-E 89-24-025	391-35-210	RE-AD-P 89-23-023	391-45-410	RE-AD-E 89-17-013
391-25-490	RE-AD-E 89-17-011	391-35-210	RE-AD-E 89-24-026	391-45-410	RE-AD-P 89-23-024
391-25-490	RE-AD-P 89-23-022	391-35-230	RE-AD-E 89-17-012	391-45-410	RE-AD-E 89-24-027
391-25-490	RE-AD-E 89-24-025	391-35-230	RE-AD-P 89-23-023	391-45-430	RE-AD-E 89-17-013
391-25-510	RE-AD-E 89-17-011	391-35-230	RE-AD-E 89-24-026	391-45-430	RE-AD-P 89-23-024
391-25-510	RE-AD-P 89-23-022	391-35-250	RE-AD-E 89-17-012	391-45-430	RE-AD-E 89-24-027
391-25-510	RE-AD-E 89-24-025	391-35-250	RE-AD-P 89-23-023	391-45-431	RE-AD-E 89-17-013
391-25-530	RE-AD-E 89-17-011	391-35-250	RE-AD-E 89-24-026	391-45-431	RE-AD-P 89-23-024
391-25-530	RE-AD-P 89-23-022	391-45-001	AMD-E 89-17-013	391-45-431	RE-AD-E 89-24-027
391-25-530	RE-AD-E 89-24-025	391-45-001	AMD-P 89-23-024	391-45-550	RE-AD-E 89-17-013
391-25-531	RE-AD-E 89-17-011	391-45-001	AMD-E 89-24-027	391-45-550	RE-AD-P 89-23-024
391-25-531	RE-AD-P 89-23-022	391-45-002	RE-AD-E 89-17-013	391-45-550	RE-AD-E 89-24-027
391-25-531	RE-AD-E 89-24-025	391-45-002	RE-AD-P 89-23-024	391-45-552	RE-AD-E 89-17-013
391-25-550	RE-AD-E 89-17-011	391-45-002	RE-AD-E 89-24-027	391-45-552	RE-AD-P 89-23-024
391-25-550	RE-AD-P 89-23-022	391-45-010	RE-AD-E 89-17-013	391-45-552	RE-AD-E 89-24-027
391-25-550	RE-AD-E 89-24-025	391-45-010	RE-AD-P 89-23-024	391-95-001	AMD-E 89-17-014
391-25-570	RE-AD-E 89-17-011	391-45-010	RE-AD-E 89-24-027	391-95-001	AMD-P 89-23-025
391-25-570	RE-AD-P 89-23-022	391-45-019	RE-AD-E 89-17-013	391-95-001	AMD-E 89-24-028
391-25-570	RE-AD-E 89-24-025	391-45-019	RE-AD-P 89-23-024	391-95-010	RE-AD-E 89-17-014
391-25-590	RE-AD-E 89-17-011	391-45-019	RE-AD-E 89-24-027	391-95-010	RE-AD-P 89-23-025
391-25-590	RE-AD-P 89-23-022	391-45-030	RE-AD-E 89-17-013	391-95-010	RE-AD-E 89-24-028
391-25-590	RE-AD-E 89-24-025	391-45-030	RE-AD-P 89-23-024	391-95-030	RE-AD-E 89-17-014
391-25-610	RE-AD-E 89-17-011	391-45-030	RE-AD-E 89-24-027	391-95-030	RE-AD-P 89-23-025
391-25-610	RE-AD-P 89-23-022	391-45-050	RE-AD-E 89-17-013	391-95-030	RE-AD-E 89-24-028
391-25-610	RE-AD-E 89-24-025	391-45-050	RE-AD-P 89-23-024	391-95-050	RE-AD-E 89-17-014
391-25-630	RE-AD-E 89-17-011	391-45-050	RE-AD-E 89-24-027	391-95-050	RE-AD-P 89-23-025
391-25-630	RE-AD-P 89-23-022	391-45-070	RE-AD-E 89-17-013	391-95-050	RE-AD-E 89-24-028
391-25-630	RE-AD-E 89-24-025	391-45-070	RE-AD-P 89-23-024	391-95-070	RE-AD-E 89-17-014
391-25-650	RE-AD-E 89-17-011	391-45-070	RE-AD-E 89-24-027	391-95-070	RE-AD-P 89-23-025
391-25-650	RE-AD-P 89-23-022	391-45-090	RE-AD-E 89-17-013	391-95-070	RE-AD-E 89-24-028
391-25-650	RE-AD-E 89-24-025	391-45-090	RE-AD-P 89-23-024	391-95-090	RE-AD-E 89-17-014

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
391-95-090	RE-AD-P 89-23-025	392-126-215	REP-P 89-14-033	392-126-405	NEW-P 89-21-097
391-95-090	RE-AD-E 89-24-028	392-126-215	REP 89-17-069	392-126-410	NEW-P 89-21-097
391-95-110	RE-AD-E 89-17-014	392-126-220	REP-P 89-14-033	392-126-415	NEW-P 89-21-097
391-95-110	RE-AD-P 89-23-025	392-126-220	REP 89-17-069	392-126-420	NEW-P 89-21-097
391-95-110	RE-AD-E 89-24-028	392-126-225	REP-P 89-14-033	392-126-425	NEW-P 89-21-097
391-95-130	RE-AD-E 89-17-014	392-126-225	REP 89-17-069	392-126-430	NEW-P 89-21-097
391-95-130	RE-AD-P 89-23-025	392-126-230	REP-P 89-14-033	392-126-435	NEW-P 89-21-097
391-95-130	RE-AD-E 89-24-028	392-126-230	REP 89-17-069	392-126-440	NEW-P 89-21-097
391-95-150	RE-AD-E 89-17-014	392-126-235	REP-P 89-14-033	392-126-500	REP-P 89-14-033
391-95-150	RE-AD-P 89-23-025	392-126-235	REP 89-17-069	392-126-500	REP 89-17-069
391-95-150	RE-AD-E 89-24-028	392-126-240	REP-P 89-14-033	392-126-505	REP-P 89-14-033
391-95-170	AMD-E 89-17-014	392-126-240	REP 89-17-069	392-126-505	REP 89-17-069
391-95-170	AMD-P 89-23-025	392-126-245	REP-P 89-14-033	392-126-510	REP-P 89-14-033
391-95-170	AMD-E 89-24-028	392-126-245	REP 89-17-069	392-126-510	REP 89-17-069
391-95-190	RE-AD-E 89-17-014	392-126-250	REP-P 89-14-033	392-126-600	REP-P 89-14-033
391-95-190	RE-AD-P 89-23-025	392-126-250	REP 89-17-069	392-126-600	REP 89-17-069
391-95-190	RE-AD-E 89-24-028	392-126-255	REP-P 89-14-033	392-126-605	REP-P 89-14-033
391-95-230	AMD-E 89-17-014	392-126-255	REP 89-17-069	392-126-605	REP 89-17-069
391-95-230	AMD-P 89-23-025	392-126-260	REP-P 89-14-033	392-126-610	REP-P 89-14-033
391-95-230	AMD-E 89-24-028	392-126-260	REP 89-17-069	392-126-610	REP 89-17-069
391-95-250	RE-AD-E 89-17-014	392-126-265	REP-P 89-14-033	392-126-615	REP-P 89-14-033
391-95-250	RE-AD-P 89-23-025	392-126-265	REP 89-17-069	392-126-615	REP 89-17-069
391-95-250	RE-AD-E 89-24-028	392-126-270	REP-P 89-14-033	392-126-620	REP-P 89-14-033
391-95-260	RE-AD-E 89-17-014	392-126-270	REP 89-17-069	392-126-620	REP 89-17-069
391-95-260	RE-AD-P 89-23-025	392-126-275	REP-P 89-14-033	392-126-625	REP-P 89-14-033
391-95-260	RE-AD-E 89-24-028	392-126-275	REP 89-17-069	392-126-625	REP 89-17-069
391-95-270	RE-AD-E 89-17-014	392-126-280	REP-P 89-14-033	392-126-630	REP-P 89-14-033
391-95-270	RE-AD-P 89-23-025	392-126-280	REP 89-17-069	392-126-630	REP 89-17-069
391-95-270	RE-AD-E 89-24-028	392-126-285	REP-P 89-14-033	392-126-700	REP-P 89-14-033
391-95-280	RE-AD-E 89-17-014	392-126-285	REP 89-17-069	392-126-700	REP 89-17-069
391-95-280	RE-AD-P 89-23-025	392-126-290	REP-P 89-14-033	392-126-705	REP-P 89-14-033
391-95-280	RE-AD-E 89-24-028	392-126-290	REP 89-17-069	392-126-705	REP 89-17-069
391-95-290	RE-AD-E 89-17-014	392-126-291	REP-P 89-14-033	392-126-710	REP-P 89-14-033
391-95-290	RE-AD-P 89-23-025	392-126-291	REP 89-17-069	392-126-710	REP 89-17-069
391-95-290	RE-AD-E 89-24-028	392-126-300	REP-P 89-14-033	392-126-800	REP-P 89-14-033
391-95-310	RE-AD-E 89-17-014	392-126-300	REP 89-17-069	392-126-800	REP 89-17-069
391-95-310	RE-AD-P 89-23-025	392-126-305	REP-P 89-14-033	392-126-805	REP-P 89-14-033
391-95-310	RE-AD-E 89-24-028	392-126-305	REP 89-17-069	392-126-805	REP 89-17-069
392-101-001	RE-AD-P 89-16-012	392-126-310	REP-P 89-14-033	392-126-810	REP-P 89-14-033
392-101-001	RE-AD-E 89-16-016	392-126-310	REP 89-17-069	392-126-810	REP 89-17-069
392-101-001	RE-AD 89-23-001	392-126-315	REP-P 89-14-033	392-126-815	REP-P 89-14-033
392-101-005	RE-AD-P 89-16-012	392-126-315	REP 89-17-069	392-126-815	REP 89-17-069
392-101-005	RE-AD-E 89-16-016	392-126-320	REP-P 89-14-033	392-126-820	REP-P 89-14-033
392-101-005	RE-AD 89-23-001	392-126-320	REP 89-17-069	392-126-820	REP 89-17-069
392-101-010	AMD-E 89-13-010	392-126-325	REP-P 89-14-033	392-126-825	REP-P 89-14-033
392-101-010	AMD-P 89-14-032	392-126-325	REP 89-17-069	392-126-825	REP 89-17-069
392-101-010	RE-AD-P 89-16-012	392-126-330	REP-P 89-14-033	392-126-830	REP-P 89-14-033
392-101-010	RE-AD-E 89-16-016	392-126-330	REP 89-17-069	392-126-830	REP 89-17-069
392-101-010	AMD 89-17-067	392-126-335	REP-P 89-14-033	392-127-100	REP-P 89-14-034
392-109-117	AMD-P 89-23-120	392-126-335	REP 89-17-069	392-127-100	REP 89-17-068
392-121-260	AMD-P 89-10-002	392-126-336	REP-P 89-14-033	392-127-105	REP-P 89-14-034
392-121-260	AMD 89-13-064	392-126-336	REP 89-17-069	392-127-105	REP 89-17-068
392-121-415	AMD-P 89-12-039	392-126-340	REP-P 89-14-033	392-127-110	REP-P 89-14-034
392-121-415	AMD 89-16-015	392-126-340	REP 89-17-069	392-127-110	REP 89-17-068
392-126-005	REP-P 89-21-097	392-126-345	REP-P 89-14-033	392-127-115	REP-P 89-14-034
392-126-100	REP-P 89-14-033	392-126-345	REP 89-17-069	392-127-115	REP 89-17-068
392-126-100	REP 89-17-069	392-126-355	REP-P 89-14-033	392-127-120	REP-P 89-14-034
392-126-105	REP-P 89-14-033	392-126-355	REP 89-17-069	392-127-120	REP 89-17-068
392-126-105	REP 89-17-069	392-126-360	REP-P 89-14-033	392-127-200	REP-P 89-14-034
392-126-110	REP-P 89-14-033	392-126-360	REP 89-17-069	392-127-200	REP 89-17-068
392-126-110	REP 89-17-069	392-126-365	REP-P 89-14-033	392-127-205	REP-P 89-14-034
392-126-115	REP-P 89-14-033	392-126-365	REP 89-17-069	392-127-205	REP 89-17-068
392-126-115	REP 89-17-069	392-126-370	REP-P 89-14-033	392-127-210	REP-P 89-14-034
392-126-120	REP-P 89-14-033	392-126-370	REP 89-17-069	392-127-210	REP 89-17-068
392-126-120	REP 89-17-069	392-126-375	REP-P 89-14-033	392-127-215	REP-P 89-14-034
392-126-125	REP-P 89-14-033	392-126-375	REP 89-17-069	392-127-215	REP 89-17-068
392-126-125	REP 89-17-069	392-126-380	REP-P 89-14-033	392-127-235	REP-P 89-14-034
392-126-130	REP-P 89-14-033	392-126-380	REP 89-17-069	392-127-235	REP 89-17-068
392-126-130	REP 89-17-069	392-126-385	REP-P 89-14-033	392-127-240	REP-P 89-14-034
392-126-135	REP-P 89-14-033	392-126-385	REP 89-17-069	392-127-240	REP 89-17-068
392-126-135	REP 89-17-069	392-126-390	REP-P 89-14-033	392-127-245	REP-P 89-14-034
392-126-200	REP-P 89-14-033	392-126-390	REP 89-17-069	392-127-245	REP 89-17-068
392-126-200	REP 89-17-069	392-126-391	REP-P 89-14-033	392-127-250	REP-P 89-14-034
392-126-205	REP-P 89-14-033	392-126-391	REP 89-17-069	392-127-250	REP 89-17-068
392-126-205	REP 89-17-069	392-126-392	REP-P 89-14-033	392-127-255	REP-P 89-14-034
392-126-210	REP-P 89-14-033	392-126-392	REP 89-17-069	392-127-255	REP 89-17-068
392-126-210	REP 89-17-069	392-126-400	NEW-P 89-21-097	392-127-264	REP-P 89-14-034

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
392-127-264	REP	89-17-068	392-127-576	REP-P	89-14-034
392-127-265	REP-P	89-14-034	392-127-576	REP	89-17-068
392-127-265	REP	89-17-068	392-127-577	REP-P	89-14-034
392-127-268	REP-P	89-14-034	392-127-577	REP	89-17-068
392-127-268	REP	89-17-068	392-127-578	REP-P	89-14-034
392-127-270	REP-P	89-14-034	392-127-578	REP	89-17-068
392-127-270	REP	89-17-068	392-127-579	REP-P	89-14-034
392-127-271	REP-P	89-14-034	392-127-579	REP	89-17-068
392-127-271	REP	89-17-068	392-127-580	REP-P	89-14-034
392-127-275	REP-P	89-14-034	392-127-580	REP	89-17-068
392-127-275	REP	89-17-068	392-127-581	REP-P	89-14-034
392-127-280	REP-P	89-14-034	392-127-645	REP-P	89-14-034
392-127-280	REP	89-17-068	392-127-645	REP	89-17-068
392-127-286	REP-P	89-14-034	392-127-650	REP-P	89-14-034
392-127-286	REP	89-17-068	392-127-650	REP	89-17-068
392-127-286	REP	89-17-068	392-127-651	REP-P	89-14-034
392-127-287	REP-P	89-14-034	392-127-651	REP	89-17-068
392-127-287	REP	89-17-068	392-127-655	REP-P	89-14-034
392-127-295	REP-P	89-14-034	392-127-655	REP	89-17-068
392-127-295	REP	89-17-068	392-127-665	REP-P	89-14-034
392-127-296	REP-P	89-14-034	392-127-665	REP	89-17-068
392-127-296	REP	89-17-068	392-127-670	REP-P	89-14-034
392-127-297	REP-P	89-14-034	392-127-670	REP	89-17-068
392-127-297	REP	89-17-068	392-127-676	REP-P	89-14-034
392-127-300	REP-P	89-14-034	392-127-676	REP	89-17-068
392-127-300	REP	89-17-068	392-127-677	REP-P	89-14-034
392-127-305	REP-P	89-14-034	392-127-677	REP	89-17-068
392-127-305	REP	89-17-068	392-127-678	REP-P	89-14-034
392-127-310	REP-P	89-14-034	392-127-678	REP	89-17-068
392-127-310	REP	89-17-068	392-127-679	REP-P	89-14-034
392-127-315	REP-P	89-14-034	392-127-679	REP	89-17-068
392-127-315	REP	89-17-068	392-127-680	REP-P	89-14-034
392-127-335	REP-P	89-14-034	392-127-680	REP	89-17-068
392-127-335	REP	89-17-068	392-129-003	AMD-P	89-21-100
392-127-340	REP-P	89-14-034	392-129-005	AMD-P	89-21-100
392-127-340	REP	89-17-068	392-129-008	NEW-P	89-21-100
392-127-345	REP-P	89-14-034	392-129-010	AMD-P	89-21-100
392-127-345	REP	89-17-068	392-129-013	REP-P	89-21-100
392-127-350	REP-P	89-14-034	392-129-015	AMD-P	89-21-100
392-127-350	REP	89-17-068	392-129-020	AMD-P	89-21-100
392-127-355	REP-P	89-14-034	392-129-030	AMD-P	89-21-100
392-127-355	REP	89-17-068	392-129-035	NEW-P	89-21-100
392-127-364	REP-P	89-14-034	392-129-040	NEW-P	89-21-100
392-127-364	REP	89-17-068	392-129-045	NEW-P	89-21-100
392-127-365	REP-P	89-14-034	392-129-050	NEW-P	89-21-100
392-127-365	REP	89-17-068	392-129-060	NEW-P	89-21-100
392-127-368	REP-P	89-14-034	392-129-065	NEW-P	89-21-100
392-127-368	REP	89-17-068	392-129-070	NEW-P	89-21-100
392-127-370	REP-P	89-14-034	392-129-080	NEW-P	89-21-100
392-127-370	REP	89-17-068	392-129-090	NEW-P	89-21-100
392-127-371	REP-P	89-14-034	392-129-100	NEW-P	89-21-100
392-127-371	REP	89-17-068	392-129-105	NEW-P	89-21-100
392-127-375	REP-P	89-14-034	392-129-110	NEW-P	89-21-100
392-127-375	REP	89-17-068	392-129-115	NEW-P	89-21-100
392-127-380	REP-P	89-14-034	392-129-120	NEW-P	89-21-100
392-127-380	REP	89-17-068	392-129-125	NEW-P	89-21-100
392-127-386	REP-P	89-14-034	392-129-130	NEW-P	89-21-100
392-127-386	REP	89-17-068	392-129-135	NEW-P	89-21-100
392-127-387	REP-P	89-14-034	392-129-140	NEW-P	89-21-100
392-127-387	REP	89-17-068	392-129-145	NEW-P	89-21-100
392-127-395	REP-P	89-14-034	392-129-150	NEW-P	89-21-100
392-127-395	REP	89-17-068	392-137-001	RE-AD-P	89-16-012
392-127-396	REP-P	89-14-034	392-137-001	RE-AD-E	89-16-016
392-127-396	REP	89-17-068	392-137-001	RE-AD	89-23-001
392-127-397	REP-P	89-14-034	392-137-002	RE-AD-P	89-16-012
392-127-397	REP	89-17-068	392-137-002	RE-AD-E	89-16-016
392-127-545	REP-P	89-14-034	392-137-002	RE-AD	89-23-001
392-127-545	REP	89-17-068	392-137-003	RE-AD-P	89-16-012
392-127-550	REP-P	89-14-034	392-137-003	RE-AD-E	89-16-016
392-127-550	REP	89-17-068	392-137-003	RE-AD	89-23-001
392-127-551	REP-P	89-14-034	392-137-010	RE-AD-P	89-16-012
392-127-551	REP	89-17-068	392-137-010	RE-AD-E	89-16-016
392-127-555	REP-P	89-14-034	392-137-010	RE-AD	89-23-001
392-127-555	REP	89-17-068	392-137-010	AMD-P	89-24-073
392-127-565	REP-P	89-14-034	392-137-015	RE-AD-P	89-16-012
392-127-565	REP	89-17-068	392-137-015	RE-AD-E	89-16-016
392-127-570	REP-P	89-14-034	392-137-015	RE-AD	89-23-001
392-127-570	REP	89-17-068	392-137-015	RE-AD-P	89-16-012
392-127-570	REP	89-17-068	392-137-020	RE-AD-P	89-19-031

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
392-139-240	REP	89-23-121	392-140-064	REP	89-18-077
392-139-243	NEW-P	89-19-031	392-140-065	REP-P	89-14-036
392-139-243	NEW	89-23-121	392-140-065	REP	89-18-077
392-139-245	AMD-P	89-19-031	392-140-066	REP-P	89-14-036
392-139-245	AMD	89-23-121	392-140-066	REP	89-18-077
392-139-297	NEW-P	89-19-031	392-140-085	REP-P	89-14-036
392-139-297	NEW	89-23-121	392-140-085	REP	89-18-077
392-139-300	AMD-P	89-19-031	392-140-086	REP-P	89-14-036
392-139-300	AMD	89-23-121	392-140-086	REP	89-18-077
392-139-310	AMD-P	89-19-031	392-140-087	REP-P	89-14-036
392-139-310	AMD	89-23-121	392-140-087	REP	89-18-077
392-139-320	AMD-P	89-19-031	392-140-088	REP-P	89-14-036
392-139-320	AMD	89-23-121	392-140-088	REP	89-18-077
392-139-330	AMD-P	89-19-031	392-140-089	REP-P	89-14-036
392-139-330	AMD	89-23-121	392-140-089	REP	89-18-077
392-139-340	AMD-P	89-19-031	392-140-090	REP-P	89-14-036
392-139-340	AMD	89-23-121	392-140-090	REP	89-18-077
392-139-605	AMD-P	89-19-031	392-140-091	REP-P	89-14-036
392-139-605	AMD	89-23-121	392-140-091	REP	89-18-077
392-139-620	AMD-P	89-19-031	392-140-092	REP-P	89-14-036
392-139-620	AMD	89-23-121	392-140-092	REP	89-18-077
392-139-650	REP-P	89-19-031	392-140-093	REP-P	89-14-036
392-139-650	REP	89-23-121	392-140-093	REP	89-18-077
392-139-660	AMD-P	89-19-031	392-140-094	REP-P	89-14-036
392-139-660	AMD	89-23-121	392-140-094	REP	89-18-077
392-139-665	AMD-P	89-19-031	392-140-095	REP-P	89-14-036
392-139-665	AMD	89-23-121	392-140-095	REP	89-18-077
392-139-670	AMD-P	89-19-031	392-140-096	REP-P	89-14-036
392-139-670	AMD	89-23-121	392-140-096	REP	89-18-077
392-139-674	NEW-P	89-19-031	392-140-097	REP-P	89-14-036
392-139-674	NEW	89-23-121	392-140-097	REP	89-18-077
392-139-675	NEW-P	89-19-031	392-140-098	REP-P	89-14-036
392-139-675	NEW	89-23-121	392-140-098	REP	89-18-077
392-139-900	AMD-P	89-19-031	392-140-099	REP-P	89-14-036
392-139-900	AMD	89-23-121	392-140-099	REP	89-18-077
392-140	AMD-P	89-21-098	392-140-100	REP-P	89-14-036
392-140-042	REP-P	89-14-036	392-140-100	REP	89-18-077
392-140-042	REP	89-18-077	392-140-101	REP-P	89-14-036
392-140-043	REP-P	89-14-036	392-140-101	REP	89-18-077
392-140-043	REP	89-18-077	392-140-102	REP-P	89-14-036
392-140-044	REP-P	89-14-036	392-140-102	REP	89-18-077
392-140-044	REP	89-18-077	392-140-103	REP-P	89-14-036
392-140-046	REP-P	89-14-036	392-140-103	REP	89-18-077
392-140-046	REP	89-18-077	392-140-104	REP-P	89-14-036
392-140-047	REP-P	89-14-036	392-140-104	REP	89-18-077
392-140-047	REP	89-18-077	392-140-105	REP-P	89-14-036
392-140-048	REP-P	89-14-036	392-140-105	REP	89-18-077
392-140-048	REP	89-18-077	392-140-106	REP-P	89-14-036
392-140-049	REP-P	89-14-036	392-140-106	REP	89-18-077
392-140-049	REP	89-18-077	392-140-107	REP-P	89-14-036
392-140-050	REP-P	89-14-036	392-140-107	REP	89-18-077
392-140-050	REP	89-18-077	392-140-108	REP-P	89-14-036
392-140-051	REP-P	89-14-036	392-140-108	REP	89-18-077
392-140-051	REP	89-18-077	392-140-109	REP-P	89-14-036
392-140-052	REP-P	89-14-036	392-140-109	REP	89-18-077
392-140-052	REP	89-18-077	392-140-110	REP-P	89-14-036
392-140-053	REP-P	89-14-036	392-140-110	REP	89-18-077
392-140-053	REP	89-18-077	392-140-111	REP-P	89-14-036
392-140-054	REP-P	89-14-036	392-140-111	REP	89-18-077
392-140-054	REP	89-18-077	392-140-112	REP-P	89-14-036
392-140-055	REP-P	89-14-036	392-140-112	REP	89-18-077
392-140-055	REP	89-18-077	392-140-113	REP-P	89-14-036
392-140-056	REP-P	89-14-036	392-140-113	REP	89-18-077
392-140-056	REP	89-18-077	392-140-114	REP-P	89-14-036
392-140-057	REP-P	89-14-036	392-140-114	REP	89-18-077
392-140-057	REP	89-18-077	392-140-115	REP-P	89-14-036
392-140-058	REP-P	89-14-036	392-140-115	REP	89-18-077
392-140-058	REP	89-18-077	392-140-116	REP-P	89-14-036
392-140-059	REP-P	89-14-036	392-140-116	REP	89-18-077
392-140-059	REP	89-18-077	392-140-117	REP-P	89-14-036
392-140-061	REP-P	89-14-036	392-140-117	REP	89-18-077
392-140-061	REP	89-18-077	392-140-118	REP-P	89-14-036
392-140-062	REP-P	89-14-036	392-140-118	REP	89-18-077
392-140-062	REP	89-18-077	392-140-119	REP-P	89-14-036
392-140-063	REP-P	89-14-036	392-140-119	REP	89-18-077
392-140-063	REP	89-18-077	392-140-120	REP-P	89-14-036
392-140-064	REP-P	89-14-036	392-140-120	REP	89-18-077

Table of WAC Sections Affected

Table of WAC Sections Affected

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
392-171-636	RE-AD	89-23-001	392-190-005	RE-AD-E	89-16-016
392-171-641	RE-AD-P	89-16-012	392-190-005	RE-AD	89-23-001
392-171-641	RE-AD-E	89-16-016	392-190-010	RE-AD-P	89-16-012
392-171-641	RE-AD	89-23-001	392-190-010	RE-AD-E	89-16-016
392-171-646	RE-AD-P	89-16-012	392-190-010	RE-AD	89-23-001
392-171-646	RE-AD-E	89-16-016	392-190-015	RE-AD-P	89-16-012
392-171-646	RE-AD	89-23-001	392-190-015	RE-AD-E	89-16-016
392-171-651	RE-AD-P	89-16-012	392-190-015	RE-AD	89-23-001
392-171-651	RE-AD-E	89-16-016	392-190-020	RE-AD-P	89-16-012
392-171-651	RE-AD	89-23-001	392-190-020	RE-AD-E	89-16-016
392-171-656	RE-AD-P	89-16-012	392-190-020	RE-AD	89-23-001
392-171-656	RE-AD-E	89-16-016	392-190-025	RE-AD-P	89-16-012
392-171-656	RE-AD	89-23-001	392-190-025	RE-AD-E	89-16-016
392-171-661	RE-AD-P	89-16-012	392-190-025	RE-AD	89-23-001
392-171-661	RE-AD-E	89-16-016	392-190-030	RE-AD-P	89-16-012
392-171-661	RE-AD	89-23-001	392-190-030	RE-AD-E	89-16-016
392-171-666	RE-AD-P	89-16-012	392-190-030	RE-AD	89-23-001
392-171-666	RE-AD-E	89-16-016	392-190-035	RE-AD-P	89-16-012
392-171-666	RE-AD	89-23-001	392-190-035	RE-AD-E	89-16-016
392-171-671	RE-AD-P	89-16-012	392-190-035	RE-AD	89-23-001
392-171-671	RE-AD-E	89-16-016	392-190-040	RE-AD-P	89-16-012
392-171-671	RE-AD	89-23-001	392-190-040	RE-AD-E	89-16-016
392-171-676	RE-AD-P	89-16-012	392-190-040	RE-AD	89-23-001
392-171-676	RE-AD-E	89-16-016	392-190-045	RE-AD-P	89-16-012
392-171-676	RE-AD	89-23-001	392-190-045	RE-AD-E	89-16-016
392-171-681	RE-AD-P	89-16-012	392-190-045	RE-AD	89-23-001
392-171-681	RE-AD-E	89-16-016	392-190-050	RE-AD-P	89-16-012
392-171-681	RE-AD	89-23-001	392-190-050	RE-AD-E	89-16-016
392-171-686	RE-AD-P	89-16-012	392-190-050	RE-AD	89-23-001
392-171-686	RE-AD-E	89-16-016	392-190-055	RE-AD-P	89-16-012
392-171-686	RE-AD	89-23-001	392-190-055	RE-AD-E	89-16-016
392-171-691	RE-AD-P	89-16-012	392-190-055	RE-AD	89-23-001
392-171-691	RE-AD-E	89-16-016	392-190-060	RE-AD-P	89-16-012
392-171-691	RE-AD	89-23-001	392-190-060	RE-AD-E	89-16-016
392-171-696	RE-AD-P	89-16-012	392-190-060	RE-AD	89-23-001
392-171-696	RE-AD-E	89-16-016	392-190-065	RE-AD-P	89-16-012
392-171-696	RE-AD	89-23-001	392-190-065	RE-AD-E	89-16-016
392-171-701	RE-AD-P	89-16-012	392-190-065	RE-AD	89-23-001
392-171-701	RE-AD-E	89-16-016	392-190-070	RE-AD-P	89-16-012
392-171-701	RE-AD	89-23-001	392-190-070	RE-AD-E	89-16-016
392-171-706	RE-AD-P	89-16-012	392-190-070	RE-AD	89-23-001
392-171-706	RE-AD-E	89-16-016	392-190-075	RE-AD-P	89-16-012
392-171-706	RE-AD	89-23-001	392-190-075	RE-AD-E	89-16-016
392-171-711	RE-AD-P	89-16-012	392-190-075	RE-AD	89-23-001
392-171-711	RE-AD-E	89-16-016	392-190-080	RE-AD-P	89-16-012
392-171-711	RE-AD	89-23-001	392-190-080	RE-AD-E	89-16-016
392-171-716	RE-AD-P	89-16-012	392-190-080	RE-AD	89-23-001
392-171-716	RE-AD-E	89-16-016	392-191-001	AMD-E	89-18-044
392-171-716	RE-AD	89-23-001	392-191-001	AMD-P	89-19-080
392-171-721	RE-AD-P	89-16-012	392-191-005	AMD-E	89-18-044
392-171-721	RE-AD-E	89-16-016	392-191-005	AMD-P	89-19-080
392-171-721	RE-AD	89-23-001	392-191-010	AMD-E	89-18-044
392-171-726	RE-AD-P	89-16-012	392-191-010	AMD-P	89-19-080
392-171-726	RE-AD-E	89-16-016	392-191-020	AMD-E	89-18-044
392-171-726	RE-AD	89-23-001	392-191-020	AMD-P	89-19-080
392-171-731	RE-AD-P	89-16-012	392-191-025	NEW-E	89-18-044
392-171-731	RE-AD-E	89-16-016	392-191-025	NEW-P	89-19-080
392-171-731	RE-AD	89-23-001	392-191-030	NEW-E	89-18-044
392-171-736	RE-AD-P	89-16-012	392-191-030	NEW-P	89-19-080
392-171-736	RE-AD-E	89-16-016	392-191-035	NEW-E	89-18-044
392-171-736	RE-AD	89-23-001	392-191-035	NEW-P	89-19-080
392-171-741	RE-AD-P	89-16-012	392-191-040	NEW-E	89-18-044
392-171-741	RE-AD-E	89-16-016	392-191-040	NEW-P	89-19-080
392-171-741	RE-AD	89-23-001	392-191-045	NEW-E	89-18-044
392-171-746	RE-AD-P	89-16-012	392-191-045	NEW-P	89-19-080
392-171-746	RE-AD-E	89-16-016	392-191-060	NEW-E	89-18-044
392-171-746	RE-AD	89-23-001	392-191-060	NEW-P	89-19-080
392-171-751	RE-AD-P	89-16-012	392-191-065	NEW-E	89-18-044
392-171-751	RE-AD-E	89-16-016	392-191-065	NEW-P	89-19-080
392-171-751	RE-AD	89-23-001	392-191-070	NEW-E	89-18-044
392-171-756	RE-AD-P	89-16-012	392-191-070	NEW-P	89-19-080
392-171-756	RE-AD-E	89-16-016	392-191-075	NEW-E	89-18-044
392-171-756	RE-AD	89-23-001	392-191-075	NEW-P	89-19-080
392-171-761	RE-AD-P	89-16-012	392-191-080	NEW-E	89-18-044
392-171-761	RE-AD-E	89-16-016	392-191-080	NEW-P	89-19-080
392-171-761	RE-AD	89-23-001	392-191-085	NEW-E	89-18-044
392-190-005	RE-AD-P	89-16-012	392-191-085	NEW-P	89-19-080

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
392-202-075	AMD-P	89-16-014	419-72-060	NEW	89-24-085
392-202-075	AMD	89-19-032	419-72-065	NEW-P	89-11-095
392-202-080	AMD-P	89-16-014	419-72-065	NEW-C	89-22-040
392-202-080	AMD	89-19-032	419-72-065	NEW	89-24-085
392-202-085	AMD-P	89-16-014	419-72-070	NEW-P	89-11-095
392-202-085	AMD	89-19-032	419-72-070	NEW-C	89-22-040
392-202-095	AMD-P	89-16-014	419-72-070	NEW	89-24-085
392-202-095	AMD	89-19-032	419-72-075	NEW-P	89-11-095
392-202-110	AMD-P	89-16-014	419-72-075	NEW-C	89-22-040
392-202-110	AMD	89-19-032	419-72-075	NEW	89-24-085
392-202-115	AMD-P	89-16-014	419-72-080	NEW-P	89-11-095
392-202-115	AMD	89-19-032	419-72-080	NEW-C	89-22-040
399-30-020	AMD-P	89-02-057	419-72-080	NEW	89-24-085
399-30-020	AMD-C	89-06-057	419-72-090	NEW-P	89-11-095
399-30-020	AMD	89-10-041	419-72-090	NEW-C	89-22-040
399-30-045	NEW-P	89-02-057	419-72-090	NEW	89-24-085
399-30-045	NEW-C	89-06-057	419-72-095	NEW-P	89-11-095
399-30-045	NEW	89-10-041	419-72-095	NEW-C	89-22-040
399-30-050	AMD-P	89-02-057	419-72-095	NEW	89-24-085
399-30-050	AMD-C	89-06-057	434-04-010	NEW-P	89-15-036
399-30-050	AMD	89-10-041	434-04-010	NEW	89-20-031
399-30-060	AMD-P	89-02-057	434-04-015	NEW-P	89-15-036
399-30-065	NEW-P	89-06-057	434-04-015	NEW	89-20-031
399-30-065	NEW	89-10-041	434-04-017	NEW-P	89-15-036
419-64-010	NEW	89-04-050	434-04-017	NEW	89-20-031
419-64-020	NEW	89-04-050	434-04-020	NEW-P	89-15-036
419-64-030	NEW	89-04-050	434-04-020	NEW	89-20-031
419-64-040	NEW	89-04-050	434-04-030	NEW-P	89-15-036
419-64-050	NEW	89-04-050	434-04-030	NEW	89-20-031
419-64-060	NEW	89-04-050	434-04-040	NEW-P	89-15-036
419-64-070	NEW	89-04-050	434-04-040	NEW	89-20-031
419-64-080	NEW	89-04-050	434-04-050	NEW-P	89-15-036
419-64-090	NEW	89-04-050	434-04-050	NEW	89-20-031
419-70-010	NEW-P	89-11-094	434-04-060	NEW-P	89-15-036
419-70-010	NEW	89-16-083	434-04-060	NEW	89-20-031
419-70-020	NEW-P	89-11-094	434-04-070	NEW-P	89-15-036
419-70-020	NEW	89-16-083	434-04-070	NEW	89-20-031
419-70-030	NEW-P	89-11-094	434-04-075	NEW-P	89-15-036
419-70-030	NEW	89-16-083	434-04-075	NEW	89-20-031
419-70-040	NEW-P	89-11-094	434-04-080	NEW-P	89-15-036
419-70-040	NEW	89-16-083	434-04-080	NEW	89-20-031
419-70-050	NEW-P	89-11-094	434-04-090	NEW-P	89-15-036
419-70-050	NEW	89-16-083	434-04-090	NEW	89-20-031
419-72	NEW-C	89-16-084	440-44-023	AMD-P	89-12-076
419-72	NEW-C	89-19-034	440-44-023	AMD-E	89-14-061
419-72-010	NEW-P	89-11-095	440-44-023	AMD	89-16-064
419-72-010	NEW-C	89-22-040	440-44-028	NEW-P	89-23-030
419-72-010	NEW	89-24-085	440-44-030	AMD-P	89-17-051
419-72-015	NEW-P	89-11-095	440-44-030	AMD-E	89-17-052
419-72-015	NEW-C	89-22-040	440-44-030	AMD	89-21-042
419-72-015	NEW	89-24-085	440-44-040	AMD-P	89-12-076
419-72-020	NEW-P	89-11-095	440-44-040	AMD-E	89-14-061
419-72-020	NEW-C	89-22-040	440-44-040	AMD	89-16-064
419-72-020	NEW	89-24-085	440-44-041	NEW-P	89-12-076
419-72-025	NEW-P	89-11-095	440-44-041	NEW-E	89-14-061
419-72-025	NEW-C	89-22-040	440-44-041	NEW	89-16-064
419-72-025	NEW	89-24-085	440-44-042	NEW-P	89-12-076
419-72-030	NEW-P	89-11-095	440-44-042	NEW-E	89-14-061
419-72-030	NEW-C	89-22-040	440-44-042	NEW-P	89-17-026
419-72-030	NEW	89-24-085	440-44-042	NEW-E	89-17-027
419-72-035	NEW-P	89-11-095	440-44-042	NEW	89-21-040
419-72-035	NEW-C	89-22-040	440-44-043	NEW-P	89-12-076
419-72-035	NEW	89-24-085	440-44-043	NEW-E	89-14-061
419-72-040	NEW-P	89-11-095	440-44-043	NEW	89-16-064
419-72-040	NEW-C	89-22-040	440-44-050	AMD-P	89-12-076
419-72-040	NEW	89-24-085	440-44-050	AMD-E	89-14-061
419-72-045	NEW-P	89-11-095	440-44-050	AMD	89-16-064
419-72-045	NEW-C	89-22-040	446-20-285	AMD-E	89-14-038
419-72-045	NEW	89-24-085	446-20-285	AMD-P	89-19-045
419-72-050	NEW-P	89-11-095	446-20-285	AMD-E	89-19-046
419-72-050	NEW-C	89-22-040	446-20-285	AMD	89-23-017
419-72-050	NEW	89-24-085	446-40-020	AMD-E	89-10-011
419-72-055	NEW-P	89-11-095	446-40-020	AMD	89-10-015
419-72-055	NEW-C	89-22-040	446-40-025	NEW-E	89-10-011
419-72-055	NEW	89-24-085	446-40-025	NEW	89-10-015
419-72-060	NEW-P	89-11-095	456-08-001	REP-P	89-06-062
419-72-060	NEW-C	89-22-040	456-08-001	REP	89-10-055

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
456-08-400	REP	89-10-055	456-09-230	NEW-P	89-06-063
456-08-401	REP-P	89-06-062	456-09-230	NEW	89-10-056
456-08-401	REP	89-10-055	456-09-310	NEW-P	89-06-063
456-08-405	REP-P	89-06-062	456-09-310	NEW	89-10-056
456-08-405	REP	89-10-055	456-09-315	NEW-P	89-06-063
456-08-408	REP-P	89-06-062	456-09-315	NEW	89-10-056
456-08-408	REP	89-10-055	456-09-320	NEW-P	89-06-063
456-08-420	REP-P	89-06-062	456-09-320	NEW	89-10-056
456-08-420	REP	89-10-055	456-09-325	NEW-P	89-06-063
456-08-430	REP-P	89-06-062	456-09-325	NEW	89-10-056
456-08-430	REP	89-10-055	456-09-330	NEW-P	89-06-063
456-08-510	REP-P	89-06-062	456-09-330	NEW	89-10-056
456-08-510	REP	89-10-055	456-09-335	NEW-P	89-06-063
456-08-520	REP-P	89-06-062	456-09-335	NEW	89-10-056
456-08-520	REP	89-10-055	456-09-340	NEW-P	89-06-063
456-08-532	REP-P	89-06-062	456-09-340	NEW	89-10-056
456-08-532	REP	89-10-055	456-09-345	NEW-P	89-06-063
456-08-535	REP-P	89-06-062	456-09-345	NEW	89-10-056
456-08-535	REP	89-10-055	456-09-350	NEW-P	89-06-063
456-08-540	REP-P	89-06-062	456-09-350	NEW	89-10-056
456-08-540	REP	89-10-055	456-09-355	NEW-P	89-06-063
456-08-600	REP-P	89-06-062	456-09-355	NEW	89-10-056
456-08-600	REP	89-10-055	456-09-360	NEW-P	89-06-063
456-08-610	REP-P	89-06-062	456-09-360	NEW	89-10-056
456-08-610	REP	89-10-055	456-09-365	NEW-P	89-06-063
456-08-620	REP-P	89-06-062	456-09-365	NEW	89-10-056
456-08-620	REP	89-10-055	456-09-410	NEW-P	89-06-063
456-08-630	REP-P	89-06-062	456-09-410	NEW	89-10-056
456-08-630	REP	89-10-055	456-09-420	NEW-P	89-06-063
456-08-635	REP-P	89-06-062	456-09-420	NEW	89-10-056
456-08-635	REP	89-10-055	456-09-430	NEW-P	89-06-063
456-08-640	REP-P	89-06-062	456-09-430	NEW	89-10-056
456-08-640	REP	89-10-055	456-09-440	NEW-P	89-06-063
456-08-650	REP-P	89-06-062	456-09-440	NEW	89-10-056
456-08-650	REP	89-10-055	456-09-510	NEW-P	89-06-063
456-08-660	REP-P	89-06-062	456-09-510	NEW	89-10-056
456-08-660	REP	89-10-055	456-09-520	NEW-P	89-06-063
456-08-670	REP-P	89-06-062	456-09-520	NEW	89-10-056
456-08-670	REP	89-10-055	456-09-530	NEW-P	89-06-063
456-08-700	REP-P	89-06-062	456-09-530	NEW	89-10-056
456-08-700	REP	89-10-055	456-09-540	NEW-P	89-06-063
456-08-705	REP-P	89-06-062	456-09-540	NEW	89-10-056
456-08-705	REP	89-10-055	456-09-550	NEW-P	89-06-063
456-08-710	REP-P	89-06-062	456-09-550	NEW	89-10-056
456-08-710	REP	89-10-055	456-09-560	NEW-P	89-06-063
456-08-715	REP-P	89-06-062	456-09-560	NEW	89-10-056
456-08-715	REP	89-10-055	456-09-570	NEW-P	89-06-063
456-08-720	REP-P	89-06-062	456-09-570	NEW	89-10-056
456-08-720	REP	89-10-055	456-09-610	NEW-P	89-06-063
456-08-725	REP-P	89-06-062	456-09-610	NEW	89-10-056
456-08-725	REP	89-10-055	456-09-615	NEW-P	89-06-063
456-08-730	REP-P	89-06-062	456-09-615	NEW	89-10-056
456-08-730	REP	89-10-055	456-09-620	NEW-P	89-06-063
456-08-735	REP-P	89-06-062	456-09-620	NEW	89-10-056
456-08-735	REP	89-10-055	456-09-625	NEW-P	89-06-063
456-08-740	REP-P	89-06-062	456-09-625	NEW	89-10-056
456-08-740	REP	89-10-055	456-09-630	NEW-P	89-06-063
456-09-010	NEW-P	89-06-063	456-09-630	NEW	89-10-056
456-09-010	NEW	89-10-056	456-09-635	NEW-P	89-06-063
456-09-110	NEW-P	89-06-063	456-09-635	NEW	89-10-056
456-09-110	NEW	89-10-056	456-09-640	NEW-P	89-06-063
456-09-120	NEW-P	89-06-063	456-09-640	NEW	89-10-056
456-09-120	NEW	89-10-056	456-09-645	NEW-P	89-06-063
456-09-130	NEW-P	89-06-063	456-09-645	NEW	89-10-056
456-09-130	NEW	89-10-056	456-09-650	NEW-P	89-06-063
456-09-140	NEW-P	89-06-063	456-09-650	NEW	89-10-056
456-09-140	NEW	89-10-056	456-09-655	NEW-P	89-06-063
456-09-150	NEW-P	89-06-063	456-09-655	NEW	89-10-056
456-09-150	NEW	89-10-056	456-09-705	NEW-P	89-06-063
456-09-160	NEW-P	89-06-063	456-09-705	NEW	89-10-056
456-09-160	NEW	89-10-056	456-09-710	NEW-P	89-06-063
456-09-170	NEW-P	89-06-063	456-09-710	NEW	89-10-056
456-09-170	NEW	89-10-056	456-09-715	NEW-P	89-06-063
456-09-210	NEW-P	89-06-063	456-09-715	NEW	89-10-056
456-09-210	NEW	89-10-056	456-09-720	NEW-P	89-06-063
456-09-220	NEW-P	89-06-063	456-09-720	NEW	89-10-056
456-09-220	NEW	89-10-056	456-09-725	NEW-P	89-06-063

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
456-10-335	NEW-P	89-06-064	456-12-050	NEW-P	89-06-065
456-10-335	NEW	89-10-057	456-12-050	NEW	89-10-058
456-10-340	NEW-P	89-06-064	456-12-060	NEW-P	89-06-065
456-10-340	NEW	89-10-057	456-12-060	NEW	89-10-058
456-10-345	NEW-P	89-06-064	456-12-070	NEW-P	89-06-065
456-10-345	NEW	89-10-057	456-12-070	NEW	89-10-058
456-10-350	NEW-P	89-06-064	456-12-080	NEW-P	89-06-065
456-10-355	NEW-P	89-06-064	456-12-080	NEW	89-10-058
456-10-355	NEW	89-10-057	456-12-090	NEW-P	89-06-065
456-10-360	NEW-P	89-06-064	456-12-090	NEW	89-10-058
456-10-360	NEW	89-10-057	456-12-100	NEW-P	89-06-065
456-10-410	NEW-P	89-06-064	456-12-100	NEW	89-10-058
456-10-410	NEW	89-10-057	456-12-110	NEW-P	89-06-065
456-10-420	NEW-P	89-06-064	456-12-110	NEW	89-10-058
456-10-420	NEW	89-10-057	456-12-120	NEW-P	89-06-065
456-10-430	NEW-P	89-06-064	456-12-120	NEW	89-10-058
456-10-430	NEW	89-10-057	456-12-130	NEW-P	89-06-065
456-10-440	NEW-P	89-06-064	456-12-130	NEW	89-10-058
456-10-440	NEW	89-10-057	456-12-140	NEW-P	89-06-065
456-10-505	NEW-P	89-06-064	456-12-140	NEW	89-10-058
456-10-505	NEW	89-10-057	458-14-005	NEW-P	89-07-087
456-10-510	NEW-P	89-06-064	458-14-009	NEW-P	89-07-087
456-10-510	NEW	89-10-057	458-14-010	REP-P	89-07-087
456-10-515	NEW-P	89-06-064	458-14-014	NEW-P	89-07-087
456-10-515	NEW	89-10-057	458-14-015	NEW-P	89-07-087
456-10-520	NEW-P	89-06-064	458-14-016	NEW-P	89-07-087
456-10-520	NEW	89-10-057	458-14-017	NEW-P	89-07-087
456-10-525	NEW-P	89-06-064	458-14-019	NEW-P	89-07-087
456-10-525	NEW	89-10-057	458-14-020	REP-P	89-07-087
456-10-530	NEW-P	89-06-064	458-14-021	NEW-P	89-07-087
456-10-530	NEW	89-10-057	458-14-023	NEW-P	89-07-087
456-10-535	NEW-P	89-06-064	458-14-025	NEW-P	89-07-087
456-10-535	NEW	89-10-057	458-14-027	NEW-P	89-07-087
456-10-540	NEW-P	89-06-064	458-14-029	NEW-P	89-07-087
456-10-540	NEW	89-10-057	458-14-030	REP-P	89-07-087
456-10-545	NEW-P	89-06-064	458-14-031	NEW-P	89-07-087
456-10-545	NEW	89-10-057	458-14-040	REP-P	89-07-087
456-10-550	NEW-P	89-06-064	458-14-042	NEW-P	89-07-087
456-10-550	NEW	89-10-057	458-14-045	REP-P	89-07-087
456-10-555	NEW-P	89-06-064	458-14-050	REP-P	89-07-087
456-10-555	NEW	89-10-057	458-14-052	REP-P	89-07-087
456-10-560	NEW-P	89-06-064	458-14-055	REP-P	89-07-087
456-10-560	NEW	89-10-057	458-14-060	REP-P	89-07-087
456-10-565	NEW-P	89-06-064	458-14-062	REP-P	89-07-087
456-10-565	NEW	89-10-057	458-14-065	REP-P	89-07-087
456-10-570	NEW-P	89-06-064	458-14-070	REP-P	89-07-087
456-10-570	NEW	89-10-057	458-14-075	REP-P	89-07-087
456-10-710	NEW-P	89-06-064	458-14-080	REP-P	89-07-087
456-10-710	NEW	89-10-057	458-14-085	REP-P	89-07-087
456-10-715	NEW-P	89-06-064	458-14-086	REP-P	89-07-087
456-10-715	NEW	89-10-057	458-14-090	REP-P	89-07-087
456-10-720	NEW-P	89-06-064	458-14-091	REP-P	89-07-087
456-10-720	NEW	89-10-057	458-14-092	REP-P	89-07-087
456-10-725	NEW-P	89-06-064	458-14-094	REP-P	89-07-087
456-10-725	NEW	89-10-057	458-14-098	REP-P	89-07-087
456-10-730	NEW-P	89-06-064	458-14-100	REP-P	89-07-087
456-10-730	NEW	89-10-057	458-14-110	REP-P	89-07-087
456-10-735	NEW-P	89-06-064	458-14-115	REP-P	89-07-087
456-10-735	NEW	89-10-057	458-14-120	REP-P	89-07-087
456-10-740	NEW-P	89-06-064	458-14-121	REP-P	89-07-087
456-10-740	NEW	89-10-057	458-14-122	REP-P	89-07-087
456-10-745	NEW-P	89-06-064	458-14-125	REP-P	89-07-087
456-10-745	NEW	89-10-057	458-14-126	REP-P	89-07-087
456-10-750	NEW-P	89-06-064	458-14-130	REP-P	89-07-087
456-10-750	NEW	89-10-057	458-14-135	REP-P	89-07-087
456-10-755	NEW-P	89-06-064	458-14-140	REP-P	89-07-087
456-10-755	NEW	89-10-057	458-14-145	REP-P	89-07-087
456-10-970	NEW-P	89-06-064	458-14-150	REP-P	89-07-087
456-10-970	NEW	89-10-057	458-14-152	REP-P	89-07-087
456-12-010	NEW-P	89-06-065	458-14-155	REP-P	89-07-087
456-12-010	NEW	89-10-058	458-14-160	NEW-P	89-07-087
456-12-020	NEW-P	89-06-065	458-16-115	NEW-P	89-05-052
456-12-020	NEW	89-10-058	458-16-115	NEW-W	89-08-036
456-12-030	NEW-P	89-06-065	458-16-115	NEW-E	89-08-037
456-12-030	NEW	89-10-058	458-16-115	NEW-P	89-09-074
456-12-040	NEW-P	89-06-065	458-16-115	NEW	89-12-013
456-12-040	NEW	89-10-058	458-18-220	AMD	89-10-067

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
458-53-110	AMD-P 89-05-053	460-46A-090	AMD 89-07-042	468-12	REVIEW 89-06-038
458-53-110	AMD 89-09-021	460-46A-092	NEW-P 89-03-044	468-14	REVIEW 89-08-061
458-53-150	AMD-P 89-05-053	460-46A-092	NEW 89-07-042	468-16-010	NEW-P 89-07-034
458-53-150	AMD 89-09-021	460-46A-095	AMD-P 89-03-044	468-16-010	NEW-W 89-08-064
458-53-163	AMD-P 89-05-053	460-46A-095	AMD 89-07-042	468-16-010	NEW-P 89-16-086
458-53-163	AMD 89-09-021	460-46A-105	AMD-P 89-03-044	468-16-010	NEW-W 89-19-013
458-61-230	AMD-P 89-20-076	460-46A-105	AMD 89-07-042	468-16-020	NEW-P 89-07-034
458-61-230	AMD-C 89-23-056	460-46A-110	AMD-P 89-03-044	468-16-020	NEW-W 89-08-064
460-10A-160	AMD-P 89-13-066	460-46A-110	AMD 89-07-042	468-16-020	NEW-P 89-16-086
460-10A-160	AMD-C 89-17-074	460-46A-120	REP-P 89-03-044	468-16-020	NEW-W 89-19-013
460-10A-160	AMD 89-21-032	460-46A-120	REP 89-07-042	468-16-030	NEW-P 89-07-034
460-20A-008	NEW-P 89-13-066	460-46A-145	AMD-P 89-03-044	468-16-030	NEW-W 89-08-064
460-20A-008	NEW 89-17-079	460-46A-145	AMD 89-07-042	468-16-030	NEW-P 89-16-086
460-20A-220	AMD-P 89-13-067	460-46A-150	AMD-P 89-03-044	468-16-030	NEW-W 89-19-013
460-20A-220	AMD-P 89-13-068	460-46A-150	AMD 89-07-042	468-16-040	NEW-P 89-07-034
460-20A-220	AMD 89-17-077	460-46A-155	AMD-P 89-03-044	468-16-040	NEW-W 89-08-064
460-20A-230	AMD-P 89-13-068	460-46A-155	AMD 89-07-042	468-16-040	NEW-P 89-16-086
460-20A-230	AMD 89-17-077	463-30	AMD-P 89-24-014	468-16-040	NEW-W 89-19-013
460-20A-420	AMD-P 89-13-066	463-30-010	AMD-P 89-24-014	468-16-050	NEW-P 89-07-034
460-20A-420	AMD 89-17-079	463-30-020	AMD-P 89-24-014	468-16-050	NEW-W 89-08-064
460-20A-425	AMD-P 89-13-066	463-30-050	AMD-P 89-24-014	468-16-050	NEW-P 89-16-086
460-20A-425	AMD 89-17-079	463-30-060	AMD-P 89-24-014	468-16-050	NEW-W 89-19-013
460-24A-050	AMD-P 89-13-067	463-30-070	REP-P 89-24-014	468-16-060	NEW-P 89-07-034
460-24A-050	AMD 89-17-077	463-30-080	AMD-P 89-24-014	468-16-060	NEW-W 89-08-064
460-33A-010	AMD-P 89-13-068	463-30-085	NEW-P 89-24-014	468-16-060	NEW-P 89-16-086
460-33A-010	AMD 89-17-078	463-30-090	AMD-P 89-24-014	468-16-060	NEW-W 89-19-013
460-33A-015	AMD-P 89-13-068	463-30-100	AMD-P 89-24-014	468-16-070	NEW-P 89-07-034
460-33A-015	AMD 89-17-078	463-30-110	REP-P 89-24-014	468-16-070	NEW-W 89-08-064
460-33A-017	AMD-P 89-13-068	463-30-120	AMD-P 89-24-014	468-16-070	NEW-P 89-16-086
460-33A-017	AMD 89-17-078	463-30-130	REP-P 89-24-014	468-16-070	NEW-W 89-19-013
460-33A-031	AMD-P 89-13-068	463-30-140	REP-P 89-24-014	468-16-080	NEW-P 89-07-034
460-33A-031	AMD 89-17-078	463-30-150	REP-P 89-24-014	468-16-080	NEW-W 89-08-064
460-33A-055	AMD-P 89-13-068	463-30-160	REP-P 89-24-014	468-16-080	NEW-P 89-16-086
460-33A-055	AMD 89-17-078	463-30-170	REP-P 89-24-014	468-16-080	NEW-W 89-19-013
460-33A-065	AMD-P 89-13-068	463-30-180	REP-P 89-24-014	468-16-090	NEW-P 89-07-034
460-33A-065	AMD 89-17-078	463-30-190	AMD-P 89-24-014	468-16-090	NEW-W 89-08-064
460-33A-080	AMD-P 89-13-068	463-30-200	AMD-P 89-24-014	468-16-090	NEW-P 89-16-086
460-33A-080	AMD 89-17-078	463-30-210	REP-P 89-24-014	468-16-090	NEW-W 89-19-013
460-33A-085	AMD-P 89-13-068	463-30-220	REP-P 89-24-014	468-16-100	NEW-P 89-07-034
460-33A-085	AMD 89-17-078	463-30-230	AMD-P 89-24-014	468-16-100	NEW-W 89-08-064
460-33A-105	AMD-P 89-13-068	463-30-240	AMD-P 89-24-014	468-16-100	NEW-P 89-16-086
460-33A-105	AMD 89-17-078	463-30-250	AMD-P 89-24-014	468-16-100	NEW-W 89-19-013
460-42A-020	REP-P 89-13-069	463-30-260	REP-P 89-24-014	468-16-110	NEW-P 89-07-034
460-42A-020	AMD-C 89-17-075	463-30-270	AMD-P 89-24-014	468-16-110	NEW-W 89-08-064
460-42A-020	AMD 89-21-031	463-30-290	REP-P 89-24-014	468-16-110	NEW-P 89-16-086
460-42A-030	NEW-P 89-13-069	463-30-295	REP-P 89-24-014	468-16-110	NEW-W 89-19-013
460-42A-030	NEW 89-17-080	463-30-300	AMD-P 89-24-014	468-16-120	NEW-P 89-07-034
460-42A-081	AMD-P 89-13-066	463-30-310	AMD-P 89-24-014	468-16-120	NEW-W 89-08-064
460-42A-081	AMD-C 89-17-074	463-30-320	AMD-P 89-24-014	468-16-120	NEW-P 89-16-086
460-42A-082	AMD 89-21-032	463-30-330	AMD-P 89-24-014	468-16-120	NEW-W 89-19-013
460-44A-500	AMD-P 89-13-070	463-30-335	NEW-P 89-24-014	468-16-130	NEW-P 89-07-034
460-44A-500	AMD 89-17-076	463-30-340	REP-P 89-24-014	468-16-130	NEW-W 89-08-064
460-44A-501	AMD-P 89-13-070	463-30-350	REP-P 89-24-014	468-16-130	NEW-P 89-16-086
460-44A-501	AMD 89-17-076	463-30-360	REP-P 89-24-014	468-16-130	NEW-W 89-19-013
460-44A-502	AMD-P 89-13-070	463-30-370	REP-P 89-24-014	468-16-140	NEW-P 89-07-034
460-44A-502	AMD 89-17-076	463-30-380	REP-P 89-24-014	468-16-140	NEW-W 89-08-064
460-44A-503	AMD-P 89-13-070	463-30-410	AMD-P 89-24-014	468-16-140	NEW-P 89-16-086
460-44A-503	AMD 89-17-076	463-30-420	AMD-P 89-24-014	468-16-140	NEW-W 89-19-013
460-44A-505	AMD-P 89-13-070	463-34	AMD-P 89-24-014	468-16-150	NEW-P 89-07-034
460-44A-505	AMD 89-17-076	463-34-010	AMD-P 89-24-014	468-16-150	NEW-W 89-08-064
460-44A-506	AMD-P 89-13-070	463-34-020	REP-P 89-24-014	468-16-150	NEW-P 89-16-086
460-44A-506	AMD 89-17-076	463-34-030	AMD-P 89-24-014	468-16-150	NEW-W 89-19-013
460-44A-508	NEW-P 89-13-070	463-34-040	REP-P 89-24-014	468-16-160	NEW-P 89-07-034
460-44A-508	NEW 89-17-076	463-34-050	AMD-P 89-24-014	468-16-160	NEW-W 89-08-064
460-46A-010	AMD-P 89-03-044	463-34-060	AMD-P 89-24-014	468-16-160	NEW-P 89-16-086
460-46A-010	AMD 89-07-042	463-34-070	AMD-P 89-24-014	468-16-160	NEW-W 89-19-013
460-46A-050	AMD-P 89-03-044	463-34-080	AMD-P 89-24-014	468-16-170	NEW-P 89-07-034
460-46A-050	AMD 89-07-042	463-34-090	AMD-P 89-24-014	468-16-170	NEW-W 89-08-064
460-46A-060	REP-P 89-03-044	463-34-100	REP-P 89-24-014	468-16-170	NEW-P 89-16-086
460-46A-060	REP 89-07-042	468-06	REVIEW 89-06-038	468-16-170	NEW-W 89-19-013
460-46A-070	REP-P 89-03-044	468-06-030	AMD-P 89-14-019	468-16-180	NEW-P 89-07-034
460-46A-070	REP 89-07-042	468-06-030	AMD 89-17-047	468-16-180	NEW-W 89-08-064
460-46A-080	REP-P 89-03-044	468-06-040	AMD-P 89-14-019	468-16-180	NEW-P 89-16-086
460-46A-080	REP 89-07-042	468-06-040	AMD 89-17-047	468-16-180	NEW-W 89-19-013
460-46A-085	REP-P 89-03-044	468-06-050	AMD-P 89-14-019	468-16-190	NEW-P 89-07-034
460-46A-085	REP 89-07-042	468-06-050	AMD 89-17-047	468-16-190	NEW-W 89-08-064
460-46A-090	AMD-P 89-03-044	468-10	REVIEW 89-06-038	468-16-190	NEW-P 89-16-086

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
468-16-190	NEW-W	89-19-013	468-100-008	NEW	89-17-048
468-16-200	NEW-P	89-07-034	468-100-009	NEW-P	89-14-039
468-16-200	NEW-W	89-08-064	468-100-009	NEW	89-17-048
468-16-200	NEW-P	89-16-086	468-100-010	NEW-P	89-14-039
468-16-200	NEW-W	89-19-013	468-100-010	NEW	89-17-048
468-16-210	NEW-P	89-07-034	468-100-011	NEW-P	89-14-039
468-16-210	NEW-W	89-08-064	468-100-011	NEW	89-17-048
468-16-210	NEW-P	89-16-086	468-100-012	NEW-P	89-14-039
468-16-210	NEW-W	89-19-013	468-100-012	NEW	89-17-048
468-18	REVIEW	89-06-038	468-100-013	NEW-P	89-14-039
468-30	REVIEW	89-08-061	468-100-013	NEW	89-17-048
468-34	REVIEW	89-08-061	468-100-014	NEW-P	89-14-039
468-34-020	AMD	89-05-022	468-100-014	NEW	89-17-048
468-34-060	AMD	89-05-022	468-100-015	NEW-P	89-14-039
468-34-100	AMD	89-05-022	468-100-015	NEW	89-17-048
468-34-110	AMD	89-05-022	468-100-016	NEW-P	89-14-039
468-34-120	AMD	89-05-022	468-100-016	NEW	89-17-048
468-34-130	AMD	89-05-022	468-100-017	NEW-P	89-14-039
468-34-140	AMD	89-05-022	468-100-017	NEW	89-17-048
468-34-150	AMD	89-05-022	468-100-018	NEW-P	89-14-039
468-34-170	AMD	89-05-022	468-100-018	NEW	89-17-048
468-34-190	AMD	89-05-022	468-100-019	NEW-P	89-14-039
468-34-210	AMD	89-05-022	468-100-019	NEW	89-17-048
468-34-220	AMD	89-05-022	468-100-020	NEW-P	89-14-039
468-34-250	AMD	89-05-022	468-100-020	NEW	89-17-048
468-34-290	AMD	89-05-022	468-100-020	NEW-P	89-14-039
468-34-300	AMD	89-05-022	468-100-020	NEW	89-17-048
468-34-320	AMD	89-05-022	468-100-020	NEW-P	89-14-039
468-34-340	AMD	89-05-022	468-100-020	NEW	89-17-048
468-34-350	NEW	89-05-022	468-100-020	NEW-P	89-14-039
468-38	REVIEW	89-13-027	468-100-020	NEW	89-17-048
468-38-030	AMD-P	89-19-042	468-100-020	NEW-P	89-14-039
468-38-030	AMD	89-23-110	468-100-020	NEW	89-17-048
468-38-040	AMD-P	89-19-042	468-100-031	NEW-P	89-14-039
468-38-040	AMD	89-23-110	468-100-031	NEW	89-17-048
468-38-050	AMD-P	89-19-042	468-100-032	NEW-P	89-14-039
468-38-050	AMD	89-23-110	468-100-032	NEW	89-17-048
468-38-100	AMD-P	89-19-042	468-100-033	NEW-P	89-14-039
468-38-100	AMD	89-23-110	468-100-033	NEW	89-17-048
468-38-160	AMD-P	89-19-042	468-100-034	NEW-P	89-14-039
468-38-160	AMD	89-23-110	468-100-034	NEW	89-17-048
468-38-200	AMD-P	89-19-042	468-100-035	NEW-P	89-14-039
468-38-200	AMD	89-23-110	468-100-035	NEW	89-17-048
468-38-230	AMD-P	89-19-042	468-100-036	NEW-P	89-14-039
468-38-230	AMD	89-23-110	468-100-036	NEW	89-17-048
468-38-250	AMD-P	89-19-042	468-100-040	NEW-P	89-14-039
468-38-250	AMD	89-23-110	468-100-040	NEW	89-17-048
468-38-260	AMD-P	89-19-042	468-100-042	NEW-P	89-14-039
468-38-260	AMD	89-23-110	468-100-042	NEW	89-17-048
468-38-350	AMD-P	89-19-042	468-100-043	NEW-P	89-14-039
468-38-350	AMD	89-23-110	468-100-043	NEW	89-17-048
468-38-390	AMD-P	89-19-042	468-100-050	NEW-P	89-14-039
468-38-390	AMD	89-23-110	468-100-050	NEW	89-17-048
468-46	REVIEW	89-13-027	468-100-050	NEW-P	89-14-039
468-54	REVIEW	89-08-061	468-100-052	NEW	89-17-048
468-58	REVIEW	89-08-061	468-100-053	NEW-P	89-14-039
468-58-070	REP-P	89-22-013	468-100-053	NEW	89-17-048
468-66	PREP	89-22-021	468-100-054	NEW-P	89-14-039
468-70	PREP	89-22-021	468-100-054	NEW	89-17-048
468-74	PREP	89-22-021	468-100-055	NEW-P	89-14-039
468-78	REVIEW	89-22-021	468-100-055	NEW	89-17-048
468-95	PREP	89-22-021	468-100-601	NEW-P	89-14-039
468-100-001	NEW-P	89-14-039	468-100-601	NEW	89-17-048
468-100-001	NEW	89-17-048	468-100-602	NEW-P	89-14-039
468-100-002	NEW-P	89-14-039	468-100-602	NEW	89-17-048
468-100-002	NEW	89-17-048	468-300	REVIEW	89-06-038
468-100-003	NEW-P	89-14-039	468-300-010	AMD	89-04-014
468-100-003	NEW	89-17-048	468-300-010	AMD-P	89-08-068
468-100-004	NEW-P	89-14-039	468-300-010	AMD-C	89-12-005
468-100-004	NEW	89-17-048	468-300-010	AMD	89-14-052
468-100-005	NEW-P	89-14-039	468-300-020	AMD	89-04-014
468-100-005	NEW	89-17-048	468-300-020	AMD-P	89-08-068
468-100-006	NEW-P	89-14-039	468-300-020	AMD-C	89-12-005
468-100-006	NEW	89-17-048	468-300-020	AMD	89-14-052
468-100-007	NEW-P	89-14-039	468-300-040	AMD	89-04-014
468-100-007	NEW	89-17-048	468-300-040	AMD-P	89-08-068
468-100-008	NEW-P	89-14-039	468-300-040	AMD-C	89-12-005

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
478-116-462	NEW-P	89-09-043	479-116-020	NEW-E	89-10-054
478-116-463	NEW-P	89-09-043	479-116-020	NEW	89-14-005
478-116-465	NEW-P	89-09-043	479-116-030	NEW-P	89-10-053
478-116-466	NEW-P	89-09-043	479-116-030	NEW-E	89-10-054
478-116-467	NEW-P	89-09-043	479-116-030	NEW	89-14-005
478-116-470	AMD-P	89-09-043	479-116-035	NEW-P	89-10-053
478-116-470	AMD	89-15-023	479-116-035	NEW-E	89-10-054
478-116-490	AMD-P	89-09-043	479-116-035	NEW	89-14-005
478-116-490	AMD	89-15-023	479-116-040	NEW-P	89-10-053
478-116-500	AMD-P	89-09-043	479-116-040	NEW-E	89-10-054
478-116-500	AMD	89-15-023	479-116-040	NEW	89-14-005
478-116-510	AMD-P	89-09-043	479-116-045	NEW-P	89-10-053
478-116-510	AMD	89-15-023	479-116-045	NEW-E	89-10-054
478-116-512	NEW-P	89-09-043	479-116-045	NEW	89-14-005
478-116-515	NEW-P	89-09-043	479-116-050	NEW-P	89-10-053
478-116-520	AMD-P	89-09-043	479-116-050	NEW-E	89-10-054
478-116-520	AMD	89-15-023	479-116-050	NEW	89-14-005
478-116-525	NEW-P	89-09-043	479-116-060	NEW-P	89-10-053
478-116-550	AMD-P	89-09-043	479-116-060	NEW-E	89-10-054
478-116-550	AMD	89-15-023	479-116-060	NEW	89-14-005
478-116-586	AMD-P	89-09-043	479-120-020	NEW-P	89-10-053
478-116-586	AMD	89-15-023	479-120-020	NEW-E	89-10-054
478-116-600	AMD-P	89-09-043	479-120-020	NEW	89-14-005
478-116-600	AMD	89-15-023	479-120-033	NEW-P	89-10-053
478-116-600	AMD-P	89-20-041	479-120-033	NEW-E	89-10-054
478-138-030	AMD-P	89-20-042	479-120-033	NEW	89-14-005
478-138-040	AMD-P	89-20-042	480-08-010	REP-C	89-17-049
478-138-050	AMD-P	89-20-042	480-08-010	REP-E	89-17-050
479-112-005	NEW-P	89-10-053	480-08-010	REP	89-21-036
479-112-005	NEW-E	89-10-054	480-08-015	REP-C	89-17-049
479-112-005	NEW	89-14-005	480-08-015	REP-E	89-17-050
479-112-007	NEW-P	89-10-053	480-08-015	REP	89-21-036
479-112-007	NEW-E	89-10-054	480-08-020	REP-C	89-17-049
479-112-007	NEW	89-14-005	480-08-020	REP-E	89-17-050
479-112-008	NEW-P	89-10-053	480-08-020	REP	89-21-036
479-112-008	NEW-E	89-10-054	480-08-030	REP-C	89-17-049
479-112-008	NEW	89-14-005	480-08-030	REP-E	89-17-050
479-112-009	NEW-P	89-10-053	480-08-030	REP	89-21-036
479-112-009	NEW-E	89-10-054	480-08-040	REP-C	89-17-049
479-112-009	NEW	89-14-005	480-08-040	REP-E	89-17-050
479-112-010	NEW-P	89-10-053	480-08-040	REP	89-21-036
479-112-010	NEW-E	89-10-054	480-08-040	REP	89-21-036
479-112-010	NEW	89-14-005	480-08-050	REP-C	89-17-049
479-112-017	NEW-P	89-10-053	480-08-050	REP-E	89-17-050
479-112-017	NEW-E	89-10-054	480-08-055	REP-C	89-17-049
479-112-017	NEW	89-14-005	480-08-055	REP-E	89-17-050
479-112-018	NEW-P	89-10-053	480-08-055	REP	89-21-036
479-112-018	NEW-E	89-10-054	480-08-060	REP-C	89-17-049
479-112-018	NEW	89-14-005	480-08-060	REP-E	89-17-050
479-112-020	NEW-P	89-10-053	480-08-060	REP	89-21-036
479-112-020	NEW-E	89-10-054	480-08-070	REP-C	89-17-049
479-112-020	NEW	89-14-005	480-08-070	REP-E	89-17-050
479-113-010	NEW-P	89-10-053	480-08-070	REP	89-21-036
479-113-010	NEW-E	89-10-054	480-08-080	REP-C	89-17-049
479-113-010	NEW	89-14-005	480-08-080	REP-E	89-17-050
479-113-010	NEW-P	89-10-053	480-08-080	REP	89-21-036
479-113-010	NEW-E	89-10-054	480-08-080	REP	89-17-049
479-113-011	NEW-P	89-10-053	480-08-080	REP	89-21-036
479-113-011	NEW-E	89-10-054	480-08-090	REP-C	89-17-049
479-113-011	NEW	89-14-005	480-08-090	REP-E	89-17-050
479-113-029	NEW-P	89-10-053	480-08-090	REP	89-21-036
479-113-029	NEW-E	89-10-054	480-08-100	REP-C	89-17-049
479-113-029	NEW	89-14-005	480-08-100	REP-E	89-17-050
479-113-031	NEW-P	89-10-053	480-08-100	REP	89-21-036
479-113-031	NEW-E	89-10-054	480-08-110	REP-C	89-17-049
479-113-031	NEW	89-14-005	480-08-110	REP-E	89-17-050
479-113-032	NEW-P	89-10-053	480-08-110	REP	89-21-036
479-113-032	NEW-E	89-10-054	480-08-120	REP-C	89-17-049
479-113-032	NEW	89-14-005	480-08-120	REP-E	89-17-050
479-113-035	NEW-P	89-10-053	480-08-120	REP	89-21-036
479-113-035	NEW-E	89-10-054	480-08-130	REP-C	89-17-049
479-113-035	NEW	89-14-005	480-08-130	REP-E	89-17-050
479-116-015	NEW-P	89-10-053	480-08-130	REP	89-21-036
479-116-015	NEW-E	89-10-054	480-08-140	REP-C	89-17-049
479-116-015	NEW	89-14-005	480-08-140	REP-E	89-17-050
479-116-016	NEW-P	89-10-053	480-08-140	REP	89-21-036
479-116-016	NEW-E	89-10-054	480-08-150	REP-C	89-17-049
479-116-016	NEW	89-14-005	480-08-150	REP-E	89-17-050
479-116-020	NEW-P	89-10-053	480-08-150	REP	89-21-036

Table of WAC Sections Affected

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
480-35-070	NEW-P	89-20-049	480-100-031	AMD-C	89-11-084
480-35-070	NEW-E	89-20-051	480-100-031	AMD	89-12-070
480-35-070	NEW	89-23-049	480-100-031	AMD-W	89-19-047
480-35-080	NEW-P	89-20-049	480-100-031	AMD-P	89-19-048
480-35-080	NEW-E	89-20-051	480-105-001	REP-P	89-08-111
480-35-080	NEW	89-23-049	480-105-001	REP-W	89-12-067
480-35-090	NEW-P	89-20-049	480-105-001	REP-P	89-12-068
480-35-090	NEW-E	89-20-051	480-105-001	REP	89-15-043
480-35-090	NEW	89-23-049	480-105-005	REP-P	89-08-111
480-35-100	NEW-P	89-20-049	480-105-005	REP-W	89-12-067
480-35-100	NEW-E	89-20-051	480-105-005	REP-P	89-12-068
480-35-100	NEW	89-23-049	480-105-005	REP	89-15-043
480-35-110	NEW-P	89-20-049	480-105-010	REP-P	89-08-111
480-35-110	NEW-E	89-20-051	480-105-010	REP-W	89-12-067
480-35-110	NEW	89-23-049	480-105-010	REP-P	89-12-068
480-35-120	NEW-P	89-20-049	480-105-010	REP	89-15-043
480-35-120	NEW-E	89-20-051	480-105-020	REP-P	89-08-111
480-35-120	NEW	89-23-049	480-105-020	REP-W	89-12-067
480-40-065	NEW-P	89-23-046	480-105-020	REP-P	89-12-068
480-40-100	NEW-P	89-23-046	480-105-020	REP	89-15-043
480-50-090	AMD-P	89-19-048	480-105-030	REP-P	89-08-111
480-62-085	NEW-P	89-19-048	480-105-030	REP-W	89-12-067
480-70-325	AMD-P	89-23-046	480-105-030	REP-P	89-12-068
480-70-330	AMD	89-06-021	480-105-030	REP	89-15-043
480-70-335	AMD-P	89-23-046	480-105-040	REP-P	89-08-111
480-70-350	AMD-P	89-19-048	480-105-040	REP-W	89-12-067
480-70-400	AMD	89-06-021	480-105-040	REP-P	89-12-068
480-70-405	AMD	89-06-021	480-105-040	REP	89-15-043
480-75-010	NEW-P	89-19-048	480-105-050	REP-P	89-08-111
480-80-070	AMD-P	89-12-072	480-105-050	REP-W	89-12-067
480-80-070	AMD	89-15-042	480-105-050	REP-P	89-12-068
480-80-330	AMD-P	89-08-110	480-105-050	REP	89-15-043
480-80-330	AMD	89-12-038	480-105-060	REP-P	89-08-111
480-80-390	NEW-P	89-12-069	480-105-060	REP-W	89-12-067
480-80-390	NEW-C	89-17-041	480-105-060	REP-P	89-12-068
480-80-390	NEW	89-19-038	480-105-060	REP	89-15-043
480-90-031	AMD-P	89-09-070	480-105-070	REP-P	89-08-111
480-90-031	AMD-C	89-11-084	480-105-070	REP-W	89-12-067
480-90-031	AMD	89-12-070	480-105-070	REP-P	89-12-068
480-90-031	AMD-W	89-19-047	480-105-070	REP	89-15-043
480-90-031	AMD-P	89-19-048	480-105-080	REP-P	89-08-111
480-90-071	AMD-P	89-13-071	480-105-080	REP-W	89-12-067
480-90-071	AMD-C	89-16-047	480-105-080	REP-P	89-12-068
480-90-071	AMD	89-17-034	480-105-080	REP	89-15-043
480-90-201	REP-P	89-05-042	480-107-001	NEW-P	89-08-111
480-90-201	REP	89-08-030	480-107-001	NEW-W	89-12-067
480-90-206	REP-P	89-05-042	480-107-001	NEW-P	89-12-068
480-90-206	REP	89-08-030	480-107-001	NEW	89-15-043
480-90-216	REP-P	89-05-042	480-107-005	NEW-P	89-08-111
480-90-216	REP	89-08-030	480-107-005	NEW-W	89-12-067
480-90-221	REP-P	89-05-042	480-107-005	NEW-P	89-12-068
480-90-221	REP	89-08-030	480-107-005	NEW	89-15-043
480-90-226	REP-P	89-05-042	480-107-010	NEW-P	89-08-111
480-90-226	REP	89-08-030	480-107-010	NEW-W	89-12-067
480-90-231	REP-P	89-05-042	480-107-010	NEW-P	89-12-068
480-90-231	REP	89-08-030	480-107-010	NEW	89-15-043
480-90-241	REP-P	89-05-042	480-107-020	NEW-P	89-08-111
480-90-241	REP	89-08-030	480-107-020	NEW-W	89-12-067
480-90-246	REP-P	89-05-042	480-107-020	NEW-P	89-12-068
480-90-246	REP	89-08-030	480-107-020	NEW	89-15-043
480-90-251	REP-P	89-05-042	480-107-030	NEW-P	89-08-111
480-90-251	REP	89-08-030	480-107-030	NEW-W	89-12-067
480-90-256	REP-P	89-05-042	480-107-030	NEW-P	89-12-068
480-90-256	REP	89-08-030	480-107-030	NEW	89-15-043
480-90-261	REP-P	89-05-042	480-107-040	NEW-P	89-08-111
480-90-261	REP	89-08-030	480-107-040	NEW-W	89-12-067
480-90-266	REP-P	89-05-042	480-107-040	NEW-P	89-12-068
480-90-266	REP	89-08-030	480-107-040	NEW	89-15-043
480-90-271	REP-P	89-05-042	480-107-050	NEW-P	89-08-111
480-90-271	REP	89-08-030	480-107-050	NEW-W	89-12-067
480-90-276	REP-P	89-05-042	480-107-050	NEW-P	89-12-068
480-90-276	REP	89-08-030	480-107-050	NEW	89-15-043
480-90-281	REP-P	89-05-042	480-107-060	NEW-P	89-08-111
480-90-281	REP	89-08-030	480-107-060	NEW-W	89-12-067
480-90-286	REP-P	89-05-042	480-107-060	NEW-P	89-12-068
480-90-286	REP	89-08-030	480-107-060	NEW	89-15-043
480-100-031	AMD-P	89-09-070	480-107-070	NEW-P	89-08-111

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
504-04-140	NEW-P	89-20-036	504-08-420	REP-E	89-18-017
504-04-140	NEW	89-23-117	504-08-420	REP-P	89-20-036
504-08-001	REP-E	89-18-017	504-08-420	REP	89-23-117
504-08-001	REP-P	89-20-036	504-08-510	REP-E	89-18-017
504-08-001	REP	89-23-117	504-08-510	REP-P	89-20-036
504-08-010	REP-E	89-18-017	504-08-510	REP	89-23-117
504-08-010	REP-P	89-20-036	504-08-520	REP-E	89-18-017
504-08-010	REP	89-23-117	504-08-520	REP-P	89-20-036
504-08-080	REP-E	89-18-017	504-08-520	REP	89-23-117
504-08-080	REP-P	89-20-036	504-08-530	REP-E	89-18-017
504-08-080	REP	89-23-117	504-08-530	REP-P	89-20-036
504-08-090	REP-E	89-18-017	504-08-530	REP	89-23-117
504-08-090	REP-P	89-20-036	504-08-540	REP-E	89-18-017
504-08-090	REP	89-23-117	504-08-540	REP-P	89-20-036
504-08-100	REP-E	89-18-017	504-08-540	REP	89-23-117
504-08-100	REP-P	89-20-036	504-08-550	REP-E	89-18-017
504-08-100	REP	89-23-117	504-08-550	REP-P	89-20-036
504-08-110	REP-E	89-18-017	504-08-550	REP	89-23-117
504-08-110	REP-P	89-20-036	504-08-560	REP-E	89-18-017
504-08-110	REP	89-23-117	504-08-560	REP-P	89-20-036
504-08-120	REP-E	89-18-017	504-08-560	REP	89-23-117
504-08-120	REP-P	89-20-036	504-08-570	REP-E	89-18-017
504-08-120	REP	89-23-117	504-08-570	REP-P	89-20-036
504-08-130	REP-E	89-18-017	504-08-570	REP	89-23-117
504-08-130	REP-P	89-20-036	504-20-005	REP-P	89-05-036
504-08-130	REP	89-23-117	504-20-005	REP	89-11-065
504-08-140	REP-E	89-18-017	504-20-010	REP-P	89-05-036
504-08-140	REP-P	89-20-036	504-20-010	REP	89-11-065
504-08-140	REP	89-23-117	504-20-020	REP-P	89-05-036
504-08-230	REP-E	89-18-017	504-20-020	REP	89-11-065
504-08-230	REP-P	89-20-036	504-20-025	REP-P	89-05-036
504-08-230	REP	89-23-117	504-20-025	REP	89-11-065
504-08-240	REP-E	89-18-017	504-20-030	REP-P	89-05-036
504-08-240	REP-P	89-20-036	504-20-030	REP	89-11-065
504-08-240	REP	89-23-117	504-20-040	REP-P	89-05-036
504-08-250	REP-E	89-18-017	504-20-040	REP	89-11-065
504-08-250	REP-P	89-20-036	504-21-060	REP-P	89-05-036
504-08-250	REP	89-23-117	504-21-060	AMD	89-11-065
504-08-260	REP-E	89-18-017	504-24-010	REP-P	89-05-036
504-08-260	REP-P	89-20-036	504-24-010	REP	89-11-065
504-08-260	REP	89-23-117	504-24-011	REP-P	89-05-036
504-08-270	REP-E	89-18-017	504-24-011	REP	89-11-065
504-08-270	REP-P	89-20-036	504-25-005	NEW-P	89-05-036
504-08-270	REP	89-23-117	504-25-005	NEW	89-11-065
504-08-270	REP	89-23-117	504-25-010	NEW-P	89-05-036
504-08-280	REP-E	89-18-017	504-25-010	NEW	89-11-065
504-08-280	REP-P	89-20-036	504-25-015	NEW-P	89-05-036
504-08-280	REP	89-23-117	504-25-015	NEW	89-11-065
504-08-290	REP-E	89-18-017	504-25-020	NEW-P	89-05-036
504-08-290	REP-P	89-20-036	504-25-020	NEW	89-11-065
504-08-290	REP	89-23-117	504-25-020	NEW	89-11-065
504-08-300	REP-E	89-18-017	504-25-025	NEW-P	89-05-036
504-08-300	REP-P	89-20-036	504-25-025	NEW	89-11-065
504-08-300	REP	89-23-117	504-25-030	NEW-P	89-05-036
504-08-310	REP-E	89-18-017	504-25-030	NEW	89-11-065
504-08-310	REP-P	89-20-036	504-25-035	NEW-P	89-05-036
504-08-310	REP	89-23-117	504-25-035	NEW	89-11-065
504-08-320	REP-E	89-18-017	504-25-040	NEW-P	89-05-036
504-08-320	REP-P	89-20-036	504-25-040	NEW	89-11-065
504-08-320	REP	89-23-117	504-25-045	NEW-P	89-05-036
504-08-330	REP-E	89-18-017	504-25-045	NEW	89-11-065
504-08-330	REP-P	89-20-036	504-25-050	NEW-P	89-05-036
504-08-330	REP	89-23-117	504-25-050	NEW	89-11-065
504-08-340	REP-E	89-18-017	504-25-055	NEW-P	89-05-036
504-08-340	REP-P	89-20-036	504-25-055	NEW	89-11-065
504-08-340	REP	89-23-117	504-25-060	NEW-P	89-05-036
504-08-350	REP-E	89-18-017	504-25-060	NEW	89-11-065
504-08-350	REP-P	89-20-036	504-25-065	NEW-P	89-05-036
504-08-350	REP	89-23-117	504-25-065	NEW	89-11-065
504-08-360	REP-E	89-18-017	504-25-070	NEW-P	89-05-036
504-08-360	REP-P	89-20-036	504-25-070	NEW	89-11-065
504-08-360	REP	89-23-117	504-25-075	NEW-P	89-05-036
504-08-400	REP-E	89-18-017	504-25-075	NEW	89-11-065
504-08-400	REP-P	89-20-036	504-25-080	NEW-P	89-05-036
504-08-400	REP	89-23-117	504-25-080	NEW	89-11-065
504-08-410	REP-E	89-18-017	504-25-085	NEW-P	89-05-036
504-08-410	REP-P	89-20-036	504-25-085	NEW	89-11-065
504-08-410	REP	89-23-117	504-25-090	NEW-P	89-05-036

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

ACCOUNTANCY, BOARD OF		AGRICULTURE, DEPARTMENT OF—cont.
Part-time and retired licensees, reduced fees	89-10-012 89-19-004	groundwater protection 89-01-110 89-06-006 89-07-006
Practice and procedure	89-03-062	home and garden products, registration fee 89-18-081 89-22-074
Third-party compensation for CPA's	89-10-013 89-12-073	restricted use 89-03-065 89-04-056 89-05-004 89-07-051 89-08-006 89-11-093 89-12-002 89-14-016 89-16-057 89-16-073 89-20-067
ADMINISTRATIVE HEARINGS, OFFICE OF		
Copying fees	89-10-035	
Field office locations	89-13-036	
Practice and procedure, model rules	89-10-035 89-13-036	
AGRICULTURE, DEPARTMENT OF		
Apples, firmness standards	89-09-011	
Aquaculture disease inspection (see FISHERIES, DEPARTMENT OF)	89-13-047	
Asparagus commission	89-14-031	safe use, general rules 89-19-064 89-23-073
Bean seed certification	89-19-065	Potatoes, production of limited generation certified seed potatoes 89-19-064 89-23-073
Bermudagrass seed certification, removal from list of noxious weed seeds	89-24-074	
Blueberry commission compensation	89-12-001	Poultry and hatching eggs importation 89-01-084 89-06-007
Caneberry stock, certification	89-12-001	testing 89-01-084 89-06-007
Cattle	89-09-057	Seed certification, inspection, and testing 89-07-074
tuberculosis testing of animals shipped from states with modified accredited status	89-12-054	Seed certification standards bermudagrass 89-12-001
Daminozide, restricted uses	89-12-063	Seeds mandatory arbitration rules small grain seed labeling requirements treated seed labeling requirements 89-24-066 89-23-099
Dinoseb, use on caneberries	89-16-051	Slaughtering, custom farm establishments, premises, injured animals and FFA or 4-H animals 89-10-065 89-14-020
Feedlots, restricted	89-21-005	State fairs commission, meetings 89-05-059
Fruit, controlled atmosphere, storage license	89-21-074	Warehousemen and dealers, licensed 89-08-019 89-11-092
Grass seed certification fees	89-24-021	
Harmony (herbicide), restrictions on use	89-12-002	
Horticulture inspection fees	89-09-012	
Noxious weed control board meetings	89-09-017	
position numbers and those eligible to vote for each position	89-02-056	
Noxious weeds	89-06-014	
bermudagrass, removal from list list, revised list	89-05-041	
serrated tussock seed, addition to list of prohibited seeds	89-08-039	
yellow nutsedge quarantine	89-09-013	
Organic producer and transfer to organic producer certification	89-12-046	
Pesticides	89-05-040	
applicator recordkeeping	89-08-040	
daminozide, restrictions on use	89-02-025	
general rules	89-07-065	
	89-24-089	
	89-11-071	
	89-11-072	
	89-16-007	
	89-12-001	
	89-20-057	
	89-07-029	
	89-07-074	
	89-11-078	
	89-20-077	
	89-21-064	
	89-24-090	
	89-20-035	
	89-23-068	
	89-23-116	
	89-12-002	
	89-18-008	
	89-20-067	
	89-21-063	
	89-24-029	

Subject/Agency Index

(Citations in **bold type** refer to material in this issue)

ATTORNEY GENERAL'S OFFICE —cont.		
interpreters, provision of interpreters in court proceedings (No. 10, 1989)	89-11-069	
law enforcement officers' and fire fighters' retirement system member, longevity pay following period of disability retirement (No. 3, 1989)	89-06-022	
law enforcement officers, training requirement following 90-day break in service unenforceable (No. 2, 1989)	89-05-011	
marriage licenses, affidavit required, applicant free of venereal disease (No. 30, 1988)	89-01-066	
medicine, surgery, and osteopathy, Federal Health Care Quality Improvement Act of 1986 does not infringe on Tenth Amendment rights nor preempt state reporting requirements (No. 8, 1989)	89-10-018	
municipal bonds, sale by underwriter, identity of bondholders not a public record (No. 11, 1989)	89-12-023	
needle exchange programs as violations of criminal law (No. 13, 1989)	89-16-002	
school directors, compensation (No. 5, 1989)	89-06-041	
school districts, adolescent health care clinics, use of school property, advertising of services (No. 17, 1989)	89-20-007	
schools, in-service training credit for certificated employees (No. 7, 1989)	89-08-071	
surrogate parenting agreements (No. 4, 1989)	89-07-028	
trust lands, authority to invest proceeds from sale or use of (No. 14, 1989)	89-16-032	
Motor vehicle warranties arbitration	89-01-020 89-01-021 89-06-025 89-06-026 89-12-030 89-12-031 89-16-024	
BANKING, DIVISION OF <i>(See GENERAL ADMINISTRATION, DEPARTMENT OF)</i>		
BASIC HEALTH PLAN		
Enrollment, effective date	89-02-028 89-02-029 89-06-001	
Income defined	89-08-055 89-08-097 89-11-059 89-16-021 89-19-018 89-22-014	
Recertification, verification of income		
BELLEVUE COMMUNITY COLLEGE		
Meetings	89-01-054	
Rules coordinator	89-22-055	
BIG BEND COMMUNITY COLLEGE		
Academic transcripts	89-22-053	
Athletes, suspension for drug violations	89-22-052	
Bookstore operations	89-22-054	
Classified employees, reduction in force	89-22-053	
Classified staff, development and training	89-22-053	
Designated authority	89-22-054	
Elections	89-22-053	
Environmental Policies Act	89-22-053	
Facilities, equipment, and supplies, use of	89-22-054	
Family Educational Rights and Privacy Act of 1974	89-22-054	
Food service	89-22-053	
Library operation	89-22-054	
BIG BEND COMMUNITY COLLEGE —cont.		
Off-campus housing		89-22-053
Organization and operation		89-22-052
Personnel files		89-22-054
Practice and procedure		89-22-052
Residence housing		89-22-054
Rules coordinator		89-22-052
Student rights and responsibilities		89-22-054
Swimming pool and diving		89-22-053
Tenure, collective bargaining related to		89-22-053
Traffic		89-22-054
BLIND, DEPARTMENT OF SERVICES FOR THE		
Administration review		89-22-118
Business enterprise program, application, insurance, and agreement		89-18-013 89-21-046
Fair hearings		89-22-118
Rules coordinator		89-16-006
Vendors' licenses and agreements		89-18-013 89-21-046
Vendors, state committee of blind		89-18-013 89-21-046
BLIND, WASHINGTON STATE SCHOOL FOR THE		
Rules coordinator		89-16-005
BLUEBERRY COMMISSION <i>(See AGRICULTURE, DEPARTMENT OF)</i>		
BUILDING CODE COUNCIL		
Amendments, local and statewide, consideration policies and procedures		89-17-138
Barrier free facilities		89-17-138
Energy code		89-04-043
Meetings		89-04-012
Uniform codes additions, deletions, and exceptions to codes adopted adoption of revised provisions Water conservation performance standards		89-06-036 89-15-001 89-16-046 89-18-002 89-23-069
CEMETERY BOARD <i>(See LICENSING, DEPARTMENT OF)</i>		
CENTENNIAL COMMISSION		
Funding of projects of state-wide significance		89-21-089
Meetings		89-21-088
Rules coordinator		89-14-122
CENTRAL WASHINGTON UNIVERSITY		
Meetings		89-03-030 89-07-007
Parking and traffic regulations		89-14-023 89-19-026 89-19-027
CENTRALIA COLLEGE		
Athletes, loss of eligibility, drug or steroid use		89-24-094
Meetings		89-12-055
Practice and procedure rules		89-24-093
Rules coordinator		89-24-062
Student records policy		89-24-092
CHIROPRACTIC DISCIPLINARY BOARD		
Billing		89-01-017
Coinsurance forgiveness, advertising restrictions		89-12-083 89-16-095
Delegation of services to unlicensed personnel		89-12-083
Radiographic standards		89-01-017
Retirement duties		89-01-017

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

CHIROPRACTIC DISCIPLINARY BOARD —cont.		
records and x-rays, maintenance and retention	89-01-017	
Withdrawal from practice	89-01-017	
duties		
records and x-rays, maintenance and retention	89-01-017	
CHIROPRACTIC EXAMINERS, BOARD OF		
Continuing education, chiropractic philosophy	89-14-102 89-18-086	
Examinations	89-14-029 89-18-085	
License renewals	89-14-029 89-18-085	
Reexamination, permission required after six sittings	89-18-082	
Remedial education, examination failure	89-18-082 89-21-058	
CLARK COLLEGE		
Meetings	89-01-057	
Public records	89-04-035 89-12-024	
CLEMENCY AND PARDONS BOARD		
Meetings	89-05-005	
CODE REVISER'S OFFICE		
Rules and notices, drafting and filing	89-09-068 89-12-028	
Rules coordinator	89-09-069	
COLUMBIA RIVER GORGE COMMISSION		
Access to property involved in contested cases	89-21-003	
Adoption of rules, procedure	89-24-069	
Appeal process	89-04-004	
Applications, resubmission of disapproved applications	89-13-056	
Commission defined	89-13-056	
Development review, notice requirements	89-13-056	
Executive director, authority to represent commission	89-07-010	
Existing uses, review guidelines	89-13-056	
Rule-making hearings, notice	89-10-043	
COMMERCE AND ECONOMIC DEVELOPMENT (See TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)		
COMMUNITY COLLEGE EDUCATION, BOARD FOR		
Meetings	89-19-022	
Tuition and fees	89-22-063 89-06-054 89-09-056 89-11-079 89-14-037	
COMMUNITY DEVELOPMENT, DEPARTMENT OF		
Archaeological excavation and removal permits	89-17-116 89-17-117	
Department of Energy public hearing	89-03-019	
Fireworks, records and sales	89-13-019 89-13-020 89-17-024	
Food banks and distribution centers, state assistance	89-18-052 89-22-032	
Head start programs, availability of state funds	89-13-078 89-21-056 89-08-013 89-16-079 89-17-093 89-17-137	
Meetings		
Public works board	89-02-057 89-06-057 89-10-041	
emergency public works projects		
COMMUNITY DEVELOPMENT, DEPARTMENT OF		
—cont.		
meetings		89-23-051
COMMUNITY PROTECTION, GOVERNOR'S TASK FORCE ON		
Public hearings, notice of		89-21-053
CONVENTION AND TRADE CENTER		
Meetings		89-01-006 89-02-013 89-03-006 89-03-055 89-04-006 89-04-036 89-06-027 89-07-016 89-07-072 89-08-029 89-11-068 89-12-048 89-12-049 89-14-017 89-15-015 89-16-058 89-18-072 89-19-005 89-20-038 89-22-041 89-24-018 89-24-019
CORRECTIONS, DEPARTMENT OF		
Assault, benefits for department employees		89-11-108 89-15-059
Community residential programs		
disciplinary hearings		89-02-058 89-07-083
procedures		89-02-058 89-07-083
Jail costs, reimbursement rate, escapes and criminal complaints		89-07-075 89-12-003
Prison discipline		89-01-104 89-04-032
Regional jail camp		89-04-031 89-06-010
Visitation, inmates in adult correctional institutions		89-11-029
Work training release		
disciplinary hearings		89-02-058 89-02-058
CRIMINAL JUSTICE TRAINING COMMISSION		
Basic law enforcement training requirement		89-07-049 89-07-050 89-13-024
Physical requirements, admission to basic law enforcement academies		89-07-048 89-13-023
DEAF, WASHINGTON STATE SCHOOL FOR THE		
Rules coordinator		89-16-035
DEFERRED COMPENSATION, COMMITTEE FOR		
Deferrals, amounts limited, number of changes per year		89-07-090
Dependent care assistance salary reduction plan		89-07-089 89-11-011 89-15-061 89-20-022
Dependent, definition revised		89-11-009
Distributions		89-07-090 89-11-008
Enrollment and transfers		89-11-010
Federal law, amendments to maintain eligibility of state deferred compensation plan under federal law		89-20-021
		89-07-090

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

DEFERRED COMPENSATION, COMMITTEE FOR		ECOLOGY, DEPARTMENT OF—cont.
—cont.		Motor vehicle emission inspections
Investment by committee for deferred compensation moneys	89-11-008 89-11-010 89-16-100	89-21-075 89-24-060 89-02-055 89-15-046 89-21-072 89-17-003
DENTAL DISCIPLINARY BOARD (See LICENSING, DEPARTMENT OF)		Open burning
DENTAL EXAMINERS, BOARD OF (See LICENSING, DEPARTMENT OF)		Public participation grants
EASTERN WASHINGTON UNIVERSITY		Rules coordinator
Meetings	89-20-001 89-20-046 89-22-051 89-23-052 89-23-065	Shorelines Bogachiel River, addition to streams and rivers constituting shorelines
ECOLOGY, DEPARTMENT OF		Grass Lake, removal from lakes subject to management
Accredited laboratories		89-23-125
environmental laboratories	89-04-052 89-07-032 89-10-001	89-24-067 89-01-108 89-07-025
national pollutant discharge elimination system permit program	89-04-051 89-09-015	89-20-016
state waste discharge permit program	89-04-051 89-09-015	89-08-113 89-14-129 89-17-032 89-17-033
Air contaminate sources	89-02-055	89-17-154
Air pollution	89-02-055	89-17-155
particulate matter	89-23-128	89-22-137
sources		89-23-127
Aluminum plants, control and prevention of air pollutant emissions	89-23-128	89-03-012
Ash management standards, special incinerator ash	89-19-069	89-09-076
Coastal high hazard areas	89-01-109	89-14-128
additional state requirements deleted	89-05-003	89-22-136
	89-07-022	89-23-126
definition deleted	89-01-109 89-05-003 89-07-022	89-17-152
Dangerous waste	89-15-047	89-22-139
citizen/proponent negotiations	89-21-071	89-15-044
generation and management	89-02-059	89-22-138
Delegation of powers	89-04-013	89-01-106
	89-08-078	89-01-106
Discharge permits, mixing zones criteria, solicitation of preproposal comment	89-21-059	89-08-035
Emergency episode plan	89-02-055	89-09-075
Environmental Policy Act, designation of responsible official	89-08-078 89-08-079 89-11-021	89-01-106 89-01-107 89-07-026 89-08-114 89-14-130
Flood control assistance grants	89-06-043	89-03-010
public hearing notice		89-02-054
Ground water management areas	89-03-029	89-19-069
and programs	89-07-076	89-06-060
area designations	89-05-039	89-11-086
city of Blaine	89-04-059	89-12-021
general schedule		89-17-073
Redmond-Bear Creek Valley		
Hazardous substance tax, additions to list of taxable substances	89-20-060	89-09-005 89-12-065 89-16-102 89-18-070
Hazardous waste management facilities, disputes between developers and local governments, resolution process	89-19-030	89-19-069
Kraft pulping mills, control and prevention of air pollutant emissions	89-23-128 89-05-039 89-08-026 89-13-018	89-23-128
Meetings		Tire dumps carriers storage site owners
		89-03-047 89-03-047

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

ECOLOGY, DEPARTMENT OF—cont.	EDUCATION, STATE BOARD OF—cont.	
Toxics Control Act	Practice and procedure	89-16-076
cleanup, identification, and investigation, processes and standards		89-17-107
local toxics control account, interim financial assistance program	Preliminary funding status, eligible projects	89-05-065
		89-06-017
		89-08-085
	Preschool accreditation	89-01-088
		89-05-061
		89-09-044
Waste reduction and recycling grant programs, preproposal comment	Professional certification approved preparation programs	89-01-040
Wastewater discharge permit fees		89-01-041
Wastewater discharge permit fees, interim	certificate form	89-21-083
	certification policies and procedures, administration	89-01-038
	continuing education	89-01-043
	general provisions	89-17-107
Water pollution control revolving fund, uses and limitations	masters in teaching, standards	89-21-082
	minimum standards	89-01-044
Water quality management planning grants program, notice of public hearing	preparation requirements	89-01-042
	unprofessional conduct	89-21-085
Wells construction standards	Project approval moratorium	89-05-066
		89-05-067
		89-06-018
		89-06-019
		89-08-086
		89-08-087
EDMONDS COMMUNITY COLLEGE		89-13-011
Handicapped, discrimination against, grievance procedure		89-13-014
		89-13-015
Meetings		89-16-040
		89-16-041
		89-16-043
		89-17-103
		89-22-009
Public records policy	Project bids, extension of time for redesign and rebid when lowest bid exceeds estimates	89-16-042
Rule coordinator		
Sex discrimination grievance procedure	Projects, state assistance, deferred payment	89-13-015
		89-17-101
		89-17-102
		89-17-103
		89-22-006
		89-22-007
		89-22-009
EDUCATION, STATE BOARD OF	School construction	
Administrative rules and hearings, procedural rules	determination of availability of suitable buildings in neighboring districts	89-21-079
Bids, time for rebid, high bid over estimates	eligibility criteria and state matching rates	89-21-080
Educational competence, certification	School districts classification	89-16-039
Foreign language requirement, sign language credits satisfy	Self-study, deletion of student learning objectives requirement	89-21-081
High school and nonhigh school district defined	Student learning objectives requirement, repeal	89-21-078
Limited certificates, general requirements	Student teaching experiences and opportunities pilot program	89-16-044
Masters degree, definition	Student teaching pilot projects	89-17-105
Meetings	Supplemental program and basic educational allocation entitlement requirements, repeal of student learning objectives requirement	89-22-012
	Teacher/student ratio, K-3	89-21-078
		89-01-039
	EFFICIENCY AND ACCOUNTABILITY IN GOVERNMENT, COMMISSION FOR	
	Meetings	89-18-074
	EMPLOYMENT SECURITY DEPARTMENT	
	Appeal, time limit	89-03-070
	Corporate officers	
	election of coverage	89-03-068

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

EMPLOYMENT SECURITY DEPARTMENT —cont.		FINANCIAL MANAGEMENT, OFFICE OF	
Disqualifying separations from base year employers, adjudications	89-17-086 89-20-064	Paydates	89-03-063 89-15-026 89-17-090
Drug tests, eligibility of persons discharged for failure to pass	89-17-085	Public defense services, provision by counties, reimbursement from state	89-11-107
Family independence program	89-17-121 89-22-064	Shared leave, transfer and valuation of leave	89-12-022 89-15-016 89-17-089
Othello rules	89-17-086 89-20-064		
Practice and procedure rules	89-19-079 89-24-030	FISHERIES, DEPARTMENT OF	
Training	89-03-069	Aquaculture disease inspection	89-03-004
approval required	89-03-069	Aquatic farms, registration	89-06-031
defined			89-07-019
Unemployment insurance	89-12-084 89-20-065	Commercial	89-10-033
overpayment collection and maximum benefit payable		Atlantic salmon, classification as food fish	89-16-009
		bottomfish	
ENERGY FACILITY SITE EVALUATION COUNCIL	89-24-014	pelagic trawl, areas closed to coastal bottomfish catch limits	89-07-033 89-02-012 89-03-003
ENERGY OFFICE			89-06-030 89-10-019
Receipt of funds, list of authorized means and devices	89-11-083 89-15-013		89-11-105 89-14-069
ENGINEERS AND LAND SURVEYORS			89-15-021
Advertisement of professional services	89-24-057		89-16-038
Engineers			89-20-045
fees			89-23-038
Land surveyors	89-24-015	crabs	89-23-122
applications	89-01-078	seasons	89-24-101
examinations	89-05-021		
fees	89-01-078	dogfish	89-01-011
temporary permits	89-05-021	set net seasons	89-01-050
Meetings	89-01-062		89-10-068
Solicitation of professional work	89-24-057	drag seine seasons	89-14-010
ENVIRONMENTAL HEARINGS OFFICE			89-19-041
Rules coordinator	89-23-032	gillnet seasons	89-10-068
EVERETT COMMUNITY COLLEGE		Columbia River	89-14-010
Meetings	89-02-002	above Bonneville	89-07-080
Rules coordinator	89-13-033		89-18-039
EVERGREEN STATE COLLEGE, THE			89-20-025
Adjudicative proceedings, brief	89-22-031		89-21-017
Computer services	89-01-063		89-21-021
Contract termination	89-22-031		89-07-002
Criminal trespass warnings	89-01-100		89-07-021
Financial aid	89-22-031		89-17-016
Library	89-01-064		89-20-004
circulation policy	89-22-031		89-21-017
Meetings	89-01-101		89-23-040
	89-10-004		89-10-068
	89-12-009		89-14-010
	89-17-020		89-09-041
	89-17-088		89-10-010
	89-20-015		89-11-013
	89-23-034		89-11-014
Organization	89-22-031		89-24-100
Procedure, model rules	89-22-031	hagfish, classification as food fish	89-10-068
Rules coordinator	89-15-045		89-14-010
	89-23-050		89-09-041
Scholarships	89-22-031	herring seasons	89-10-010
Student athletes, loss of eligibility	89-23-053		89-11-013
for drug use			89-11-014
Student conduct code, grievance and appeals process	89-18-089		89-02-022
	89-21-073		89-10-034
Tuition and fees	89-22-031	razor clams, commercial harvest, open areas	89-06-032
EXECUTIVE ORDER		river mouth sanctuary areas	89-09-051
(See GOVERNOR, OFFICE OF THE)		Cowlitz sanctuary redefined	89-09-051
			89-12-085
		salmon	89-16-055
		areas and seasons	89-16-056

Subject/Agency Index

FISHERIES, DEPARTMENT OF—cont.	
Chehalis River	89-01-008
	89-21-022
Columbia River	89-04-046
	89-04-047
	89-07-002
	89-07-021
	89-07-080
	89-17-044
	89-17-053
	89-18-064
	89-19-028
	89-19-049
	89-19-082
	89-20-004
	89-20-025
	89-21-017
	89-21-021
	89-23-040
	89-24-054
Elk River	89-01-008
Grays Harbor gill net season	89-14-049
	89-15-033
	89-16-056
	89-19-001
	89-19-023
	89-19-050
	89-22-026
	89-22-056
	89-22-110
	89-23-012
gill net gear	89-12-085
Hoquiam River	89-01-008
Humptulips River	89-01-008
Johns River	89-01-008
licenses, renewal date	89-09-080
Puget Sound all-citizen	89-01-012
	89-16-008
	89-16-054
	89-17-015
	89-17-045
	89-17-082
	89-18-012
	89-18-016
	89-18-041
	89-18-042
	89-18-065
	89-18-094
	89-19-011
	89-19-039
	89-20-009
	89-20-033
	89-21-014
	89-21-052
	89-22-001
	89-22-003
	89-22-043
	89-23-011
	89-23-039
	89-23-072
	89-23-086
	89-23-115
	89-24-044
Puget Sound salmon management and catch reporting areas	89-09-080
	89-13-004
troll fishing	89-09-073
	89-12-086
	89-13-022
	89-15-019
	89-15-034
	89-16-078
	89-17-061
	89-17-084
	89-17-143
	89-19-012
FISHERIES, DEPARTMENT OF—cont.	
	Willapa Harbor gill net season
	89-14-049
	89-16-056
	89-19-019
	89-19-029
	89-22-042
	89-01-008
	89-01-008
	89-17-142
	89-01-007
	89-04-046
	89-04-047
	89-11-050
	89-14-021
	89-11-049
	89-11-066
	89-02-050
	89-04-046
	89-04-047
	89-10-068
	89-14-010
Definitions	89-23-114
revisions and corrections	89-12-006
Exenuating circumstances defined	89-15-032
	89-23-114
Fisheries regional enhancement groups	89-23-092
	89-24-099
<u>Personal use</u>	
bottomfish	
bag limits	89-03-075
	89-07-059
	89-07-060
	89-08-074
	89-15-020
seasons	89-03-075
	89-07-059
	89-07-060
Canadian origin food fish and shellfish, proof of origin	89-10-060
	89-11-080
	89-15-010
	89-17-018
	89-17-019
claims	
areas and seasons	89-03-075
	89-07-059
	89-07-060
	89-07-066
	89-08-074
	89-13-021
	89-13-025
	89-19-081
	89-21-013
culling prohibited	89-03-075
	89-07-059
unlawful acts	89-03-075
	89-07-059
	89-07-060
cockles	
areas and seasons	89-03-075
	89-07-059
	89-07-060
crab	
unlawful acts	89-03-075
	89-07-059
	89-07-060
crawfish	
unlawful acts	89-03-075
	89-07-059
	89-07-060

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

FISHERIES, DEPARTMENT OF—cont.

foodfish	
bag limits	89-03-075 89-07-059 89-07-060 89-08-074 89-17-046 89-17-070
closed areas	
freshwater areas	
bag limits	89-03-075 89-07-059 89-07-060
halibut	
bag limits	89-03-075 89-06-052 89-07-059 89-07-060
seasons	
bag limits	89-03-075 89-06-052 89-07-059 89-07-060
licensing	
catch record cards	89-03-013 89-03-014 89-07-071 89-23-114
free licenses, nonretention of fees	89-23-114
procedures	89-03-013 89-03-014 89-07-071
recreational license form	89-03-013 89-03-014 89-07-071
recreational license stamp set sales	89-09-049
required information	89-03-013 89-03-014 89-07-071
two-consecutive-day combined license and catch record	89-12-047 89-18-093
lingcod	
areas and seasons	89-07-018 89-10-032
mussels	
areas and seasons	89-03-075 89-07-059 89-07-060 89-08-074
mutilation of food fish or shellfish to avoid length or weight limits	89-02-022
oysters	
areas and seasons	89-03-075 89-07-059 89-07-060 89-13-021 89-13-025 89-19-081
culling prohibited	89-03-075 89-07-059 89-07-060
salmon	
areas and seasons	89-17-062 89-17-122 89-19-002 89-20-034
bag limits	89-03-075 89-07-059 89-07-060 89-08-073 89-08-074 89-09-072 89-10-031 89-11-018 89-11-034 89-11-106 89-12-012 89-14-011

FISHERIES, DEPARTMENT OF—cont.

barbless hooks, when use required	89-07-018
Capitol Lake	89-10-032 89-03-075
Chehalis River	89-07-059 89-07-060
Columbia River	89-16-018 89-21-012 89-08-031 89-11-104 89-13-003 89-15-022 89-16-019 89-19-010 89-19-040 89-22-044 89-12-012
Icicle River	89-03-075
Lake Washington	89-07-059 89-07-060
Lake Wenatchee	89-16-019 89-03-075
seasons	89-07-059 89-07-060 89-09-072 89-10-031 89-11-001 89-14-011 89-14-047
Skagit Bay	89-17-046
Skagit River	89-16-077
Skykomish River	89-14-048
Washington Ship Canal	89-16-010
shellfish	89-03-075
bag limits	89-03-075 89-07-059 89-07-060
gear	89-08-074 89-03-075
shrimp	89-03-075
areas and seasons	89-07-059 89-07-060 89-08-074
unlawful acts	89-11-049 89-11-066 89-03-075
sport fishing rules	89-07-059 89-03-075 89-07-059 89-07-060
sturgeon	89-03-075
lawful gear	89-07-059 89-07-060 89-08-074
unlawful acts	89-03-075 89-07-059 89-07-060
subsistence fishing, Columbia River tributaries	89-10-009 89-10-059
Rules coordinator	89-17-058

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

FISHERIES, DEPARTMENT OF —cont.	
Volunteer cooperative projects	89-03-015 89-07-059 89-07-060
FOREST PRACTICES BOARD	
Forest practices classification, solicitation of preproposal comment	89-24-079
Local government participation in forest practices decisions in conversion and developing areas	89-20-066 89-02-060 89-08-088 89-14-121 89-18-001 89-20-054 89-23-111
Meetings	89-21-067
GAMBLING COMMISSION	
Address of commission	89-09-045
Amusement games	89-13-059
Bad checks submitted for payment of fees	89-05-024
Bingo	89-21-067
bonus and door prizes and promotions authorized	89-13-058 89-17-056
maximum receipts, prizes, and expenses	89-07-046
Bingo monitoring and review program	89-05-064 89-09-046 89-09-047
Card games	89-24-001
Washington blackjack	89-11-046
wager limits	89-15-039
Checks, acceptance	89-05-024
Cranes, electronic	89-19-083
Credit, extension of prohibited	89-05-024
Definitions	89-21-067
food and drink business	89-03-066 89-07-045 89-08-010
Electronic cranes	89-19-083
Fees	89-24-002
Flares, standards	89-03-066 89-07-045 89-08-010 89-11-048 89-17-081 89-21-070 89-07-053 89-11-048
Fund raising events, licensees may conduct jointly	89-11-046 89-15-039
Hearings, readoption	89-15-037
Immediate family defined	89-07-053 89-11-048
Inspection of premises, records, and devices	89-11-046 89-15-039 89-24-001 89-21-069
Interpretative and policy statements	89-11-046
Invoicing errors, special fee	89-15-039
Licenses	89-24-001 89-21-069
cards, chips, and other services, licensee to provide	89-05-024 89-07-053 89-11-048
Licenses	89-21-067 89-21-067
Licensing, solicitation of preproposal comment	89-17-136
Loteria	89-03-066 89-07-045 89-08-010 89-22-049
Operations and procedures	89-22-049
GAMBLING COMMISSION —cont.	
Practice and procedure rules	89-19-084 89-21-068 89-24-003
Prize control system, test of alternative system	89-13-057 89-17-056
Procedural rules, solicitation of preproposal comment	89-17-136
Public records, availability	89-21-067
Pull tabs, fund raising events, possession prior to event, authorization	89-11-046 89-15-039
Punchboard and pull tabs control of prizes	89-24-001
quality control, transfer invoices	89-17-081
retention and inventory requirements	89-17-081
Purpose and organization of commission	89-21-067
Raffle records	89-03-066 89-07-045 89-08-010
Raffles	89-21-067
conduct of	89-24-001 89-07-053
licensees may conduct jointly	89-11-048
Receipts	89-05-024
Recordkeeping, solicitation of preproposal comment	89-17-136
Rule-making procedures, readoption	89-15-037
Rules coordinator	89-23-043
Special amusement games test deadline	89-05-025 89-11-047
Washington blackjack, limits on wagers	89-24-001
GENERAL ADMINISTRATION, DEPARTMENT OF	
Acquisition of goods and services	89-14-013 89-17-094
Banking	
insurance agency activities state-chartered banks and trust companies	89-24-063
semi-annual assessment, asset charge	89-02-017 89-06-059
small business administration 7(a) loan guaranty program lenders	89-21-045
Investment bonds	89-09-004
Prevailing wage, construction of buildings	
leased by state	89-13-076
Rules coordinator	89-15-012
Savings and loan associations	
credit union business loans	89-04-050
credit union common bonds, definitions for membership purposes	89-11-094 89-16-083
credit union field of membership, expansion	89-11-095 89-16-084 89-19-034
Surplus property, disposition without offering to other state agencies	89-22-040 89-24-085
GOVERNOR, OFFICE OF THE	
African-American affairs commission	89-14-014
Criminal justice statistical analysis center, designation	89-12-007
DNA identification system oversight committee	89-15-008
Flood emergency, Eastern Washington, declaration	89-09-002
Governor's council on substance abuse	89-04-028
Governor's health policy group	89-02-021
Governor's task force on community protection	89-13-055
Growth strategies commission	89-18-071

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

GOVERNOR, OFFICE OF THE—cont.

- Interagency committee of state employed women, creation
89-23-029
- Sexual harassment
89-04-033
- Special session of legislature convened
89-10-028
- 21st century institute for advanced technology in schools
89-16-045
- Twin Rivers correctional facility, population increase authorized
89-09-001
- Washington corrections center/training center, population increase authorized
89-14-004
- Washington environment 2010 advisory committee
89-01-077

GOVERNOR'S TASK FORCE ON COMMUNITY PROTECTION
(See **COMMUNITY PROTECTION, GOVERNOR'S TASK FORCE ON**)

GREEN RIVER COMMUNITY COLLEGE
Meetings

HEALTH, BOARD OF

- Adjudicative proceedings, procedural rules
89-22-093
- Administrative procedure, formal procedure rules
89-14-096
- Communicable and certain other diseases
89-14-097
- Exemptions, waivers, and variances from board rules
89-04-055
- HIV infected persons, notification of local health officials
89-07-095
- HIV testing post-test counseling
89-21-016
- requests by insurance providers
89-20-019

- Human remains handling transportation
89-21-039
- Meetings
89-16-026
- On-site sewer systems
89-16-059

- Prenatal tests predicting congenital and heritable disorders, standards, insurance use
89-17-133
- School facilities, environmental noise protection requirements
89-20-006

- Sewage disposal, replacement and repair of existing on-site facilities adjoining marine waters
89-10-021
- Shelfish beaches, monitoring and classification
89-14-126

- Transient accommodations
89-16-103

- Vital records forms
89-17-131

- Water systems, public
89-20-020

HEALTH, DEPARTMENT OF	
Adjudicative proceedings, procedural rules	89-22-091
	89-22-092
	89-22-103
	89-22-107
	89-22-107
	89-23-091
	89-23-102
Administrative procedure, formal procedure rules	89-14-095
Certificate of need review fees	89-17-051
	89-17-052
	89-21-042
services subject to review	89-19-043
	89-19-044
	89-23-097
	89-23-098
Congenital and heritable disorders, definitions and standards	89-21-015
Dentists fees	89-24-075
renewal	89-21-041
license renewal	89-22-094
fee surcharge	89-22-095
late payment penalty	89-22-095
Dietitians and nutritionists certification and renewal requirements	89-14-104
	89-17-071
Emergency medical technicians and first responders certification requirements	89-23-028
recertification	89-17-128
	89-22-108
	89-23-028
HIV/AIDS education and training	89-17-007
	89-21-038
HIV, Class IV human immunodeficiency virus (HIV) insurance program	89-20-032
Home care agency fines	89-15-057
licensing	89-15-057
	89-17-026
	89-17-027
	89-21-040
Home health agency fines	89-15-057
licensing	89-15-057
	89-17-026
	89-17-027
Hospice agency fines	89-15-057
licensing	89-15-057
	89-17-026
	89-17-027
Hospitals charity care, solicitation of preproposal comments general area standards	89-20-058
	89-17-125
	89-22-105
HIV/AIDS education and training imaging and radiology services standards	89-21-039
	89-17-126
operational and construction standards	89-22-109
Infection control program	89-17-124
Nurses catheterization, provision for clean, intermittent catheterization in schools	89-22-106
examination, repeat	89-22-104
Osteopathic physician's assistant prescription privileges	89-22-065
	89-19-054
	89-23-067

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

HEALTH, DEPARTMENT OF —cont.			
Physical therapy, board of meetings	89-23-005	Reasonable accommodation	89-01-070
Physicians and surgeons, license fees	89-18-037	probationary period	89-05-043
Podiatrists			89-08-003
license fee reduction	89-14-103	reemployment	89-01-070
malpractice, solicitation of preproposal comment	89-17-156		89-05-043
Psychologists, education requirements	89-23-002	Rights restoration	89-08-003
	89-19-053		89-01-071
	89-21-050		89-05-043
	89-21-051		89-08-003
Rules coordinator	89-15-014	Salaries	89-22-122
	89-20-039	pro rata pay	89-01-070
		promotional increases	89-05-043
			89-08-003
HEARING AIDS, COUNCIL ON		special pay	89-22-122
Examinations and reexaminations	89-01-016	Separation	89-01-070
	89-04-017	mental or physical incapacity	89-05-043
	89-05-055		89-08-003
	89-08-096		89-22-122
Licenses, renewal	89-09-026	Shared leave	89-01-070
Recision by purchaser	89-14-007		89-05-043
Standards of practice	89-04-017		89-08-003
			89-12-060
			89-13-073
			89-17-119
HIGHER EDUCATION COORDINATING BOARD			89-18-046
Displaced homemaker program	89-04-048		89-22-019
	89-08-056	Temporary appointments	89-06-044
	89-08-057		89-06-045
Health professionals loan repayment program	89-16-072		89-09-060
	89-20-014		89-09-061
State need grant program	89-23-129		89-09-063
	89-24-064		89-13-074
			89-13-075
			89-19-017
HIGHER EDUCATION, JOINT CENTER FOR			89-22-017
Meetings	89-23-075	Training and development programs	89-01-070
HIGHER EDUCATION PERSONNEL BOARD			89-05-043
Affirmative action plans, requirements, approval	89-22-123		89-08-003
AIDS		Union shop dismissal	89-01-069
HIV and AIDS training for employees	89-06-045		89-05-043
	89-09-063		89-08-003
Allocation appeals	89-13-075		
Appeals	89-22-121		
alleged violations			
motion for continuance	89-01-067	HIGHLINE COMMUNITY COLLEGE	89-08-015
Arbitration	89-01-068	Facilities, use policy	89-11-091
grievance disputes	89-05-043		89-15-038
	89-08-003	Meetings	89-19-067
Declaratory orders	89-12-059	Rules coordinator	89-04-039
Eligibility examinations	89-01-070	Student rights and responsibilities	89-08-016
	89-05-043		
	89-08-003		
lists	89-01-070		
	89-05-043	HORSE RACING COMMISSION	89-10-078
	89-08-003	Appeal to commission	89-09-064
Hearings	89-12-059	Daily triple	89-13-008
director's determination, exceptions from	89-01-068		89-24-068
	89-05-043	Drug and alcohol testing	89-04-060
	89-08-003	licensee, employee or applicant	89-07-027
Meetings	89-09-062		89-08-090
Military leave	89-16-082		89-13-006
	89-17-118	Drugs and medications	89-09-065
	89-22-018	diuretics	89-01-112
Procedural rules	89-17-009	flunixin	89-04-026
	89-17-120	nonsteroidal anti-inflammatory drugs	89-01-112
	89-22-020		89-04-026
		License fees	89-08-070
		Licenses required	89-13-007
			89-04-029
		HOSPITAL COMMISSION	89-06-029
		Meetings	89-11-045
		Rate/budget methodology	89-01-009
			89-01-010
		Termination of agency, procedure	89-04-030
			89-14-012

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

HOUSING FINANCE COMMISSION		INSURANCE COMMISSIONER—cont.
Housing finance plan, 1990–1991, hearing notice	89-24-091	Surplus line waiver of financial requirements broker and insured
HUMAN RIGHTS COMMISSION		Vocational-technical institutes, exemption of program directors and instructors from insurance license requirement
General provisions, technical amendments	89-17-115 89-23-019 89-01-098 89-01-099 89-04-040 89-04-041 89-05-028 89-06-046 89-08-065 89-08-066 89-10-063 89-10-064 89-11-067 89-11-097 89-12-062 89-14-024 89-15-035 89-17-004 89-18-022 89-18-076 89-19-008 89-20-056 89-22-025 89-22-050 89-22-124 89-23-093 89-23-094 89-17-098 89-23-020 89-14-073	89-03-060 89-16-098 89-19-036
Meetings		INTEREST RATES (See inside front cover)
Practice and procedure		INVESTMENT BOARD
Rules coordinator		Meetings
HYDRAULIC APPEALS BOARD		JUDICIAL CONDUCT, COMMISSION ON
Administration, function, organization	89-02-046 89-07-003	Agency organization, confidentiality Meetings Procedural rules Rule amendments Rules coordinator
INDETERMINATE SENTENCE REVIEW BOARD		LABOR AND INDUSTRIES, DEPARTMENT OF
Sexual harassment policy	89-08-018	Agriculture field sanitation standards safety standards
INFORMATION SERVICES, DEPARTMENT OF		Apprenticeship and training council affirmative action apprenticeship agreements correspondence, submission deadline for consideration
Public records access	89-01-085 89-05-007	Asbestos projects
INSURANCE COMMISSIONER		Asbestos related disease claims
Agents and solicitors licenses prelicense education requirement	89-01-055	Boilers clearance
Continuing insurance education, criteria for approval	89-16-099 89-19-037	inspectors, examination
Life insurance death benefits in relation to premiums	89-05-050 89-07-073 89-07-086 89-08-038 89-17-099 89-20-028 89-21-004 89-01-065 89-01-102 89-05-017 89-09-050 89-11-096 89-17-060 89-20-017	new construction standards Construction, safety standards Crime victims' medical assistance
rate of interest on premiums	89-01-065 89-01-102 89-05-017 89-09-050 89-11-096 89-17-060 89-20-017	Explosives, safety standards Family leave
Medicare supplemental health insurance		Grain handling facilities, safety standards
substitution of policies, repeal		Hazardous waste operations and emergency response
Mortality tables differences between smokers and nonsmokers	89-03-031	Horse racing industry, workers' compensation coverage
Prelicense education courses, approval, conduct, and effective date	89-11-077	House-to-house sales
Prelicense education requirements, effective date	89-11-070 89-11-077 89-14-045 89-14-028 89-02-016	89-11-074 89-11-088 89-16-001 89-16-023 89-16-087 89-23-003
Rules coordinator		
Special liability insurance reports		

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

LABOR AND INDUSTRIES, DEPARTMENT OF

—cont.

Maximum fee schedule	89-03-064 89-08-001 89-08-002 89-12-064 89-17-039 89-23-119 89-03-064 89-08-001 89-08-002 89-12-064 89-17-039 89-23-119 89-05-038 89-07-078	89-13-077 89-14-089
Medical aid rules	89-01-111 89-06-035 89-08-058 89-09-007 89-10-014 89-16-089 89-21-011 89-22-016	89-09-003 89-18-011 89-24-013
Minimum premium, assumed worker hours	89-05-016 89-10-066 89-14-124 89-15-002 89-19-015 89-20-018 89-22-119	89-13-049 89-17-038 89-06-067 89-12-052 89-17-087 89-24-059
Minimum wage minors	89-01-111 89-06-035 89-08-058 89-09-007 89-10-014 89-16-089 89-21-011 89-22-016	89-13-049 89-17-038 89-06-067 89-12-052 89-17-087 89-24-059
recordkeeping and payment procedures	89-14-124 89-19-015 89-20-018 89-22-119	89-24-058 89-13-049 89-17-038
Mobile homes, commercial coaches, and recreation vehicles	89-05-016 89-10-066 89-14-124 89-15-002 89-19-015 89-20-018 89-22-119	89-03-032 89-03-033 89-06-074
Occupational health standards, general	89-14-124 89-19-015 89-20-018 89-22-119	89-05-054 89-08-043 89-05-054 89-08-043
Passenger vessels, licensing and fees for vessels and operators	89-14-124 89-19-015 89-20-018	89-24-065
Plumbers examination, certification, reinstatement, and temporary permit fees	89-07-079 89-12-004 89-12-051 89-17-083 89-19-009A 89-19-068 89-23-026	89-07-081 89-14-070 89-07-081 89-14-070
Prevailing wages	89-15-060 89-16-085 89-20-040 89-22-120 89-17-002	89-06-068 89-11-053 89-02-064 89-05-020 89-07-092
Recordkeeping overtime truck and bus drivers	89-15-060 89-16-085 89-20-040 89-22-119	89-08-095
Rules coordinator	89-06-058	89-01-079
Safety and health standards by occupation	89-11-035 89-06-058 89-11-035 89-22-119	89-01-083 89-06-075 89-10-072 89-10-074
general	89-06-058 89-11-035 89-22-119	89-13-052
Truck and bus drivers, recordkeeping and overtime	89-15-060 89-16-085 89-20-040	89-13-048 89-16-096
Workers' compensation asbestos related disease claims employer groups, qualifications	89-20-061 89-13-077 89-16-025 89-18-051 89-11-074 89-11-088 89-16-001	89-03-035 89-14-009 89-03-035 89-14-009 89-03-035 89-14-009
horse racing industry coverage	89-20-063 89-24-051 89-24-052	89-14-009 89-03-035 89-14-009
manual of rules, classifications, rates, and rating system, revisions	89-20-063 89-24-051 89-24-052	89-04-001 89-07-077
shake and shingle mills with automated processes, risk classification	89-20-062	89-04-002 89-18-084

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

LICENSING, DEPARTMENT OF—cont.		LICENSING, DEPARTMENT OF—cont.	
prearrangement funeral services	89-18-084	international registration plan, definitions	89-02-049
trust fund documents	89-18-084		89-02-062
Health care professions, mandatory reporting, unprofessional conduct and inability to practice	89-10-077 89-14-092	license reciprocity	89-02-064 89-17-065 89-20-043
Land development registration waiver	89-15-058 89-18-038	licensing	89-03-005 89-10-045
Liens	89-21-077	special fuel	89-11-019
filing forms and procedures		odometer disclosure requirements	89-16-074
Mandatory reporting requirements, unprofessional conduct and inability to practice	89-10-077 89-14-092	proportioned registration	89-02-048 89-02-063 89-07-035
Marriage and family therapists	89-04-003	proration	89-02-049 89-02-062
Medical examiners, board of			89-02-064
AIDS prevention and information education	89-01-080 89-06-076	reciprocity	89-07-036 89-02-049
continuing medical education	89-09-067 89-12-053		89-02-062 89-02-064
FLEX examination standards	89-09-067		89-07-036
meetings	89-12-053	tow truck operators, abandoned and inoperative vehicles	89-20-010
physician's assistants	89-01-072		89-20-011
AIDS prevention and information education requirements	89-05-056 89-08-063	Naturopathy services	89-02-051
examination	89-01-014	Nurses, registered	89-08-093
qualifications	89-06-077	interstate endorsement, licensure by	89-12-032
registration	89-16-097	Nursing, board of	89-06-072
scope of jurisdiction	89-01-014	authorization to practice, documents	89-12-033
surgical assistants	89-01-014	death, determination and pronouncement	89-06-072
program requirements waiver	89-16-097	nomenclature, use	89-12-033
qualifications, duties, utilization, and supervision	89-09-067 89-13-002	Nursing pools registration	89-05-019
surgical procedures, practice of medicine	89-09-067 89-13-002	Occupational therapy practice board	
Mental health counselors	89-16-097	AIDS prevention and information education	89-01-081
examinations and certification without examination	89-20-023	licensure	89-01-081
Midwifery	89-20-023	educational programs	89-01-081
examination, applications from persons with out-of-state education	89-07-082	renewal	89-01-081
fees	89-14-071	Optometry, board of	
Motor vehicles		AIDS prevention and information education requirements	89-01-086
abandoned and inoperative vehicles in care of registered tow truck operators	89-16-037 89-20-011		89-06-066
bonds	89-03-034	continuing education	89-09-027
special fuel user			89-06-070
commercial driver testing	89-15-040 89-18-003	drug formulary	89-10-030
for-hire vehicles, staggered expirations	89-08-091 89-08-094	equipment requirements	89-13-062
franchise disputes, dealers and manufacturers, petition fee	89-23-123 89-23-124	legend drugs, indication of authority to prescribe	89-17-040
fuel tax	89-03-005	pharmaceutical agents, certification for use	89-01-087
insurance, mandatory	89-19-052 89-22-030	prescriptive authority, identification on prescription	89-13-062
		Osteopathic medicine and surgery	89-18-083
		physicians' assistants	89-18-083
		Physical therapy board	89-13-051
		change of address or named, notification required	89-22-065
		license renewal	89-09-066
		physical therapist assistant utilization	89-17-097
			89-21-009
			89-17-096
			89-21-008
			89-09-066
			89-19-007

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

LICENSING, DEPARTMENT OF—cont.
spinal manipulation or manipulative mobilization defined

89-06-069	government securities, exemption from registration	89-13-069
89-10-073		89-17-075
89-17-095		89-17-080
89-21-007		89-21-031

Physicians and surgeons, fees, impaired physician surcharge

89-14-008	health care facilities authority bonds	89-17-075
89-14-030		89-21-031

Podiatry board

AIDS information and prevention training
examinations
fee revision
meetings

89-02-047	investment advisors, registration, examination	89-13-067
89-02-047		89-17-077
89-13-091	mortgage paper securities offer and sale	89-13-068
89-01-073		89-17-077

Practical nursing board

foreign schools of nursing, licensure of graduates

89-06-071	salespersons and broker-dealers, registration and examination	89-13-068
89-10-075	recognized securities manual	89-13-066

substance abuse monitoring programs

89-02-065	registration, exemptions from	89-21-032
-----------	-------------------------------	-----------

Psychologists, certificate of qualification

Psychologists, education requirements

89-07-005	registration, fees	89-21-032
-----------	--------------------	-----------

Radiologic technologists

Real estate brokers and salespersons
administration of funds held in trust

89-01-015	regulations and exemptions	89-03-044
-----------	----------------------------	-----------

affiliated licensees, supervision

89-22-070		89-07-042
-----------	--	-----------

clock hour credit requirements, approval of courses to satisfy courses, filing for approval, minimum classroom time

89-22-071		89-13-070
89-07-091	salespersons, registration and examination	89-17-076
89-11-032		89-13-067

examinations

89-22-069		89-17-077
-----------	--	-----------

fees

89-22-072	securities manuals, recognition	89-17-074
-----------	---------------------------------	-----------

suit or complaint notification requirement

89-22-073	Telephone, commercial solicitations	89-22-117
-----------	-------------------------------------	-----------

trust fund administration

89-07-091	Uniform commercial code filing forms and procedures	89-06-078
-----------	-----------------------------------------------------	-----------

Real estate commission
meetings

89-05-057		89-21-077
-----------	--	-----------

Real estate escrow officer
fees
inactive license

89-05-057	Unprofessional conduct or inability to practice, mandatory reporting	89-10-077
-----------	----------------------------------------------------------------------	-----------

Real estate land development representatives license fees

Respiratory care practitioners
examination

89-07-040	Veterinary board of governors	
-----------	-------------------------------	--

training

89-08-007	AIDS prevention and information education requirements	89-06-073
-----------	--------------------------------------------------------	-----------

Rules coordinator

Securities division
dishonest and unethical practices, brokers-dealers and salespersons

89-20-055		89-10-076
-----------	--	-----------

89-24-078	disciplinary reinstatement	89-02-006
-----------	----------------------------	-----------

89-23-042	honesty, integrity, and fair dealing	89-06-073
-----------	--------------------------------------	-----------

89-24-031	medical facilities, standards	89-02-006
-----------	-------------------------------	-----------

89-24-077	Watercraft registration fee	89-14-091
-----------	-----------------------------	-----------

89-23-096		89-15-049
-----------	--	-----------

89-07-040		89-18-028
-----------	--	-----------

89-08-007		
-----------	--	--

89-20-055		
-----------	--	--

89-05-058		
-----------	--	--

89-09-006		
-----------	--	--

89-05-058		
-----------	--	--

89-09-006		
-----------	--	--

89-13-017		
-----------	--	--

89-13-066		
-----------	--	--

89-17-074		
-----------	--	--

89-17-079		
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89-21-032		
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89-17-074		
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89-21-032		
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89-21-032		
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89-21-032

Subject/Agency Index

LIQUOR CONTROL BOARD—cont.	
Minors	
employment in liquor licensed establishments	89-04-025
Operations and procedures	89-08-014
Polyethylene terephthalate (P.E.T.) plastic containers, use approved	89-23-103
Rules coordinator	89-07-057
Rules review plan	89-15-024
Wine	89-02-019
labels	89-02-014
LOTTERY COMMISSION	
Central and field organization, description	89-09-079
Daily game	89-12-042
Drawings, television broadcast of	89-09-079
<u>Instant game number 38 – Jackpot</u>	89-12-042
criteria	89-09-079
definitions	89-12-042
ticket validation	89-01-022
<u>Instant game number 39 – Centennial Cash</u>	89-01-022
criteria	89-01-022
definitions	89-01-022
ticket validation	89-01-022
<u>Instant game number 40 – Double Header</u>	89-01-103
criteria	89-05-015
definitions	89-01-103
ticket validation	89-05-015
<u>Instant game number 41 – Three of a Kind</u>	89-01-103
criteria	89-05-015
definitions	89-01-103
ticket validation	89-05-015
<u>Instant game number 42 – Zodiac</u>	89-06-084
criteria	89-09-009
definitions	89-06-084
ticket validation	89-09-009
<u>Instant game number 43 – 7-11-21</u>	89-06-084
criteria	89-09-009
definitions	89-06-084
ticket validation	89-09-009
<u>Instant game number 44 – Pot O'Gold</u>	89-06-084
criteria	89-09-009
definitions	89-06-084
ticket validation	89-09-009
<u>Instant game number 45 – Happy Returns</u>	89-09-079
criteria	89-12-042
definitions	89-09-079
ticket validation	89-12-042
<u>Instant game number 46 – Big Wheel</u>	89-09-079
criteria	89-12-042
definitions	89-09-079
ticket validation	89-12-042
LOTTERY COMMISSION—cont.	
<u>Instant game number 47 – Fabulous Fifties</u>	89-13-061
criteria	89-17-021
definitions	89-13-061
ticket validation	89-17-021
<u>Instant game number 48 – Black Jack</u>	89-13-061
criteria	89-17-021
definitions	89-17-021
ticket validation	89-23-101
<u>Instant game number 49 – Play It Again</u>	89-13-061
criteria	89-21-028
definitions	89-23-101
ticket validation	89-21-028
<u>Instant game number 50 – Wall Street</u>	89-13-061
criteria	89-24-055
definitions	89-21-047
ticket validation	89-24-055
<u>Instant game number 51 – Double Dough</u>	89-13-061
criteria	89-24-055
definitions	89-21-047
ticket validation	89-24-055
<u>Instant game number 52 – Grand Slam</u>	89-13-061
criteria	89-24-055
definitions	89-21-047
ticket validation	89-24-055
Instant games	
criteria	89-17-108
definitions	89-21-029
end of game	89-17-108
tickets, purchase price and condition	89-21-029
Liquor agencies, licensing as lottery retailer required	89-01-103
Meetings	89-05-014
On-line retailers	89-09-008
agreement	89-01-103
selection criteria	89-05-015
Overlapping on-line sales, consecutive fiscal years, reporting	89-06-084
Rules coordinator	89-12-042
Validation requirements	89-02-004
Winners, use of photograph	89-09-078
LOWER COLUMBIA COLLEGE	
Meetings	89-21-027

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

MARINE EMPLOYEES' COMMISSION		NATURAL RESOURCES, DEPARTMENT OF —cont.
Grievance arbitration cases, procedures	89-21-057	Timber sales, county set-asides, eligibility and petitioning criteria
Meetings	89-22-125	89-13-065
Practice and procedure rules	89-24-056	89-14-072
Representation cases, procedural rules	89-18-062	89-17-057
Security disputes, procedural rules	89-22-060	
Unfair labor practice cases, rules of procedure	89-18-061	
Unit clarification cases, procedural rules	89-22-059	
	89-22-058	
MEDICAL EXAMINERS, BOARD OF (See LICENSING, DEPARTMENT OF)		
MINORITY AND WOMEN'S BUSINESS ENTERPRISES, OFFICE OF		
Business partnership program	89-19-070	
Certification criteria, definitions and intertwinement	89-24-050	
Definitions	89-13-046	
Goals, annual	89-17-109	
	89-17-114	
	89-24-047	
	89-17-110	
	89-17-112	
	89-24-045	
Goals for 1989-90	89-24-048	
	89-13-044	
	89-17-111	
	89-17-113	
	89-24-046	
	89-24-049	
Intertwinement	89-17-109	
Meetings	89-17-114	
Overall annual goals, procedure for setting	89-08-072	
Rules coordinator	89-13-045	
	89-14-076	
	89-20-027	
NATURAL RESOURCES, DEPARTMENT OF		
Fire hazard, authority to close central region lands on account of	89-16-081	
Land descriptions guidelines	89-01-076	
	89-08-021	
	89-11-028	
Meetings	89-01-032	
	89-07-014	
	89-08-076	
	89-08-077	
	89-11-037	
	89-11-075	
	89-12-066	
	89-13-053	
	89-13-054	
	89-16-049	
	89-19-016	
	89-20-047	
	89-23-027	
	89-24-053	
Open water disposal sites	89-23-104	
Outdoor burning	89-15-004	
suspension	89-14-068	
northeast Washington	89-05-023	
Whatcom county	89-06-004	
Public lands, closed season	89-09-014	
Rules coordinator	89-24-032	
Surveys	89-01-076	
boundary, minimum standards	89-08-021	
	89-11-028	
geodetic control, minimum standards	89-01-076	
	89-08-021	
	89-11-028	

Subject/Agency Index

(Citations in **bold type** refer to material in this issue)

PERSONNEL, DEPARTMENT OF—cont.

Grievances, requests for arbitration, procedure	89-16-093
Holidays	89-19-063
Law enforcement personnel work period designation	89-03-056
Leave miscellaneous	89-06-028
	89-24-072
shared leave	89-03-056
	89-06-028
	89-08-060
	89-11-030
	89-13-038
	89-19-060
	89-21-055
	89-11-031
	89-11-089
	89-13-009
	89-16-029
Lottery telemarketing representatives, special pay ranges	89-10-038
	89-14-027
Organization of department, description and location	89-22-114
Overtime compensation	89-01-024
	89-02-009
	89-03-058
	89-05-044
	89-22-113
	89-20-037
	89-23-070
Performance evaluation, requirements	89-22-115
Political activity	89-16-050
Probationary period, dismissal of employee, notice and rights acquired	89-20-003
Rules coordinator	89-23-076
Salary changes, consideration of fiscal impact	89-01-023
	89-03-057
	89-07-055
	89-11-041
Schedule changes, compensation	89-01-024
	89-03-058
	89-06-009
	89-06-039
	89-06-040
	89-10-040
	89-11-090
	89-15-031
Seniority leave without pay, effect on	89-16-031
	89-08-059
	89-11-042
	89-13-039
	89-16-030
Sick leave credit	89-09-040
	89-10-039
	89-13-037
	89-15-028
	89-15-030
Sick leave reporting medical certificates, when agency may request	89-06-024
	89-10-036
Standby compensation	89-01-024
	89-03-058
	89-07-054
Suspensions without pay, duration and procedure	89-22-111
Temporary appointments from within classified service	89-10-062
	89-14-026
Temporary employment	89-04-027
	89-08-028
	89-11-043
	89-14-026

PERSONNEL, DEPARTMENT OF—cont.

Transfer rights	89-22-112
Union shop	89-02-011
Upward reallocation, employee appointment status, temporary appointment option	89-22-116
Vacation leave, accrual	89-09-040
	89-10-039
	89-13-037
	89-15-028
	89-15-030
PHARMACY, BOARD OF	
Applicants, citizenship requirement repealed	89-12-081
	89-17-017
Controlled substances, registration, schedules and restrictions	89-12-082
	89-17-023
Drug samples, prohibitions	89-19-055
	89-22-047
Emergency outpatient medications	89-04-023
	89-08-062
	89-12-011
Examination, refresher course for persons retaking, jurisprudence examination	89-12-081
Fees	89-04-015
Impaired pharmacist rehabilitation	89-22-066
Outpatient parenteral products	89-22-067
Patient information required	89-04-016
Pharmacists change of address	89-19-057
	89-23-078
preparation requirements, applicants who fail pharmacy jurisprudence three times	89-19-059
	89-22-045
Pharmacy assistants	
AIDS prevention and education requirements	89-04-015
Preceptor certification	89-22-101
Prescription records, storage requirements	89-19-058
	89-22-046
Public records access	89-04-058
Sodium pentobarbital	89-12-082
Steriod regulation	89-19-056
	89-22-048
PIERCE COLLEGE	
Meetings	89-22-029
	89-23-088
PILOTAGE COMMISSIONERS, BOARD OF	
Grays Harbor district tariffs and rates	89-01-001
	89-03-037
	89-08-042
Pilots	
licensing	
physical ability requirements	89-23-090
request for waiver of five-year experience requirement	89-14-001
	89-18-045
limitations on new pilots	89-05-034
	89-05-035
	89-09-028
	89-11-060
	89-14-002
	89-18-063
Puget Sound district rates	89-01-002
	89-03-038
	89-08-041
PODIATRY BOARD	
(See LICENSING, DEPARTMENT OF)	
PRACTICAL NURSING BOARD	
(See LICENSING, DEPARTMENT OF)	
PRODUCTIVITY BOARD	
Meetings	89-23-054

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

PUBLIC DISCLOSURE COMMISSION		
Campaign finance reporting	89-17-139	
Forms	89-20-068	
Meetings	89-03-007	
	89-03-043	
Rules coordinator	89-23-036	
PUBLIC EMPLOYMENT RELATIONS COMMISSION		
Practice and procedure rules	89-17-010	
	89-23-021	
	89-24-024	
Representation cases, procedural rules	89-17-011	
	89-23-022	
	89-24-025	
Unfair labor practice cases, procedural rules	89-17-013	
	89-23-024	
	89-24-027	
Union security dispute cases, procedural rules	89-17-014	
	89-23-025	
	89-24-028	
Unit clarification cases, procedural rules	89-17-012	
	89-23-023	
	89-24-026	
PUBLIC INSTRUCTION, SUPERINTENDENT OF		
Administrative hearings, conduct of	89-13-010	
	89-14-032	
	89-17-067	
Administrative rules and hearings, procedural rules	89-16-012	
	89-16-016	
	89-23-001	
Allocations, special, 1989-91 certificated instructional staff vocational equipment	89-21-098	
	89-21-099	
Basic education allocation, list of deductible revenues revised	89-12-039	
	89-16-015	
	89-10-002	
	89-13-064	
Credits, total eligible credits defined	89-21-100	
Emergency school closures, make-up days	89-21-098	
Enhancement moneys, 1989-91 certificated instructional staff vocational equipment	89-21-099	
Excellence in education awards	89-16-014	
	89-19-032	
Finance partnerships among small districts	89-21-097	
Local education program enhancement	89-12-040	
	89-13-063	
	89-17-022	
Maintenance and operation levies, determination procedures	89-19-031	
	89-23-121	
Personnel evaluations, minimum criteria and procedural standards	89-18-044	
	89-19-080	
Repeal, outdated rules	89-14-033	
	89-14-034	
	89-14-036	
	89-17-068	
	89-17-069	
	89-18-077	
Residence defined for public school attendance	89-24-073	
School buses, state depreciation and replacement payments	89-18-049	
	89-18-050	
State board of education, publication of names of electors	89-23-120	
Student aid donations	89-14-035	
	89-17-066	
Teacher assistance program	89-16-013	
	89-16-017	
	89-22-004	
		PUBLIC INSTRUCTION, SUPERINTENDENT OF
		—cont.
		Teacher evaluations, minimum criteria and procedural standards
		89-18-044
		PUBLIC LANDS
		(See NATURAL RESOURCES, DEPARTMENT OF)
		PUBLIC WORKS BOARD
		(See COMMUNITY DEVELOPMENT, DEPARTMENT OF)
		PUGET SOUND WATER QUALITY AUTHORITY
		Meetings
		89-03-021
		89-10-017
		89-10-044
		89-18-018
		89-22-062
		REAL ESTATE COMMISSION
		(See LICENSING, DEPARTMENT OF)
		REVENUE, DEPARTMENT OF
		Agricultural land valuation
		Battery core charges
		Carbonated beverage and syrup tax
		89-23-100
		89-13-087
		89-13-089
		89-13-041
		89-13-042
		89-17-001
		89-13-087
		89-13-089
		Employees, distinguished from independent contractors
		89-13-043
		89-16-080
		Equalization, county boards, practice and procedure
		89-07-087
		Farm and agricultural land valuation
		89-23-100
		89-01-114
		89-05-008
		Forest land and timber forest land values, table
		89-21-062
		89-23-095
		89-02-026
		89-02-027
		89-10-061
		89-14-050
		89-14-051
		89-22-100
		89-01-035
		89-04-042
		89-06-005
		89-07-084
		89-07-085
		89-10-051
		89-10-052
		89-13-086
		89-13-088
		89-16-091
		Hazardous substance tax
		Inflation rates
		Mobile homes real and personal tax ratio, calculation
		89-05-053
		89-09-021
		Mobile homes and parks fees
		89-01-033
		89-17-064
		89-21-002
		Petroleum products tax
		89-13-086
		89-13-088
		Property tax levies
		89-18-092
		levies, withdrawal of proposed rules
		mobile homes, real and personal tax ratio, calculation
		89-18-024
		89-05-053
		89-09-021

Subject/Agency Index

(Citations in bold type refer to material in this issue)

REVENUE, DEPARTMENT OF —cont.	
personal property exemption, exceptions	89-05-052
	89-08-036
	89-08-037
	89-09-074
	89-12-013
	89-01-113
	89-05-009
	89-23-100
valuation procedures and standards	
Real estate excise tax	
bankruptcy liquidation sales, exemption removed	89-20-076
	89-23-056
Recordkeeping	89-08-089
	89-11-040
Refunds	
interest rates	89-01-116
	89-10-067
Rules coordinator	89-23-041
Sales and use taxes	
advertised price, inclusion of sales tax in	89-23-018
magazine and periodicals	89-17-063
	89-21-001
warranties and service agreements, taxation of	89-23-018
Solid waste collection tax	89-13-087
	89-13-089
	89-16-090
Timber excise tax	89-22-100
lump sum sales, defined	89-22-100
scale sales, defined	89-13-087
Tires, new replacement tires, fees	89-13-089
	89-21-076
Trade shows, conventions, and seminars, business and occupation tax deductions	
Use tax	
collection, businesses required to collect specified	89-02-052
	89-06-015
	89-06-016
	89-23-100
Valuation procedures and standards	
	89-22-055
	89-22-052
	89-16-006
	89-16-005
	89-14-122
	89-24-062
	89-09-069
	89-16-035
	89-17-003
	89-15-045
	89-23-050
	89-16-003
	89-23-032
	89-16-034
	89-17-058
	89-23-043
	89-15-012
	89-15-014
	89-20-039
	89-19-067
	89-14-073
	89-14-028
	89-24-088
	89-17-002
	89-13-017
	89-15-024
	89-17-091
	89-14-076
	89-20-027
	89-24-032
	89-19-009
	89-18-075
	89-23-076
	89-23-036
	89-23-041
	89-11-098
	89-23-015
	89-13-035
	89-16-004
	89-16-011
	89-18-023
	89-14-046
	89-01-031
	89-05-045
	89-06-008
	89-07-008
	89-07-009
	89-07-043
	89-09-018
	89-09-055
	89-11-016
	89-15-007
	89-17-059
	89-18-021
	89-21-019
	89-08-069
	89-14-025
	89-15-000
	89-14-119
	89-14-120
	89-19-006
	89-15-036
	89-20-031
	89-01-074
	89-07-070
	89-11-025
	89-07-069
	89-11-022
	89-05-048
	89-09-042
	89-06-012
	89-07-058
	89-01-059
	89-12-008
	89-05-012
	89-05-046
	89-05-047
	89-09-038
	89-07-062
	89-11-024
	89-07-058
	89-11-038
	89-07-058
	89-11-038
	89-07-064
	89-11-026
	89-07-063
	89-11-044
	89-07-061
	89-11-023
	89-05-006
	89-09-039

Subject / Agency Index
 (Citations in **bold type** refer to material in this issue)

SOCIAL AND HEALTH SERVICES, DEPARTMENT OF		SOCIAL AND HEALTH SERVICES, DEPARTMENT OF—cont.
Acronyms	89-09-030	grant suspension
Adjudicative proceedings	89-12-078	notice
	89-22-075	translation for non-English speaking recipients
	89-22-076	income
	89-22-077	allocation among assistance units
	89-22-078	earned income disregard, availability to sanctioned or uncooperative parent
	89-22-079	income and resources, disregard
	89-22-080	need standards for basic requirements
	89-22-081	prospective eligibility and budgeting, retrospective budgeting
	89-22-082	support enforcement cooperation, condition of eligibility
	89-22-083	support payments, fifty dollar disregard payment to families receiving cash assistance
	89-22-084	underpayments, repayment to former recipients
Administrative procedure, rules of procedure	89-14-098	Alcoholism and drug addiction
	89-14-099	treatment and support assessment centers
	89-22-075	eligibility, determination
	89-22-076	facilities
	89-22-077	medical eligibility requirements
	89-22-078	
	89-22-079	
	89-22-080	
	89-22-081	
	89-22-082	
	89-22-083	
	89-22-084	
	89-22-085	
	89-22-086	
	89-22-087	
	89-22-088	
	89-22-089	
	89-22-090	
	89-22-096	
	89-22-097	
Adult family homes	89-22-097	
license fees	89-23-030	
licensing requirements	89-23-031	
multiple ownership of facilities by single sponsor	89-01-091	
	89-05-033	
sponsors, outside employment, department approval	89-01-091	
	89-05-033	
AFDC and general assistance		
adult family home care income, treatment	89-19-073	
eligibility conditions	89-03-052	
	89-08-099	
	89-09-031	
	89-11-102	
	89-12-079	
	89-13-080	
	89-15-053	
	89-18-036	
	89-18-057	
	89-19-072	
	89-19-078	
foster care income, treatment	89-19-073	
	89-22-130	
garnished wages, inclusion in gross earned income	89-18-078	
	89-22-038	

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

**SOCIAL AND HEALTH SERVICES,
DEPARTMENT OF—cont.**

shelter services

**SOCIAL AND HEALTH SERVICES,
DEPARTMENT OF—cont.**

Fire protection, minimum fire flow
standards

89-11-055

89-16-065

89-01-093
89-06-034
89-06-048
89-06-051
89-12-014
89-14-081
89-14-084
89-18-025

First responders
certification
recertification

89-16-070

89-10-069

89-10-071

89-16-070

Ambulances and first-aid vehicles
fees

89-14-061

Food stamps
allotment standards

89-19-074

Boarding homes
licensing fees
operation and maintenance standards

89-14-061
89-09-034

boarders

89-20-029

89-22-132

89-02-032

89-02-044

89-05-032

Certificate of need
health care facilities and tertiary
services subject to review

89-14-077
89-14-087

citizenship and alien status

89-03-073

89-07-001

89-12-075

Childbirth centers, licensing fees

89-14-061

definitions

89-03-071

Child care facilities
HIV/AIDS education and training

89-19-076
89-22-134

earned income credit, treatment

89-16-106

Child care providers
HIV/AIDS education and training

89-19-076
89-22-134

employment

89-08-100

standards

89-05-062
89-08-050

unsuitable

89-15-055

89-15-056

Child protective services
authority

89-03-048
89-07-024

fair hearings, compliance with Administrative
Procedure Act and Code of Federal
Regulations

89-19-077

background inquiries

89-02-067

family independence program, income
exemptions and reporting

89-17-127

definitions

89-07-096

guidelines

89-21-048

guidelines

89-03-048

farming equipment, resource exclusion

89-14-055

Community mental health programs

89-16-105
89-19-003

filings and application

89-14-066

Crippled childrens' services

89-20-008
89-20-030

income disregard

89-18-030

Day care

89-23-108

general provisions

89-14-054

family homes, certification
requirements

89-22-039

general provisions

89-03-071

Developmentally disabled
eligibility

89-02-033
89-11-005

household composition

89-07-001

protective services

89-02-042
89-06-049

income

89-15-054

background investigations

89-02-067
89-07-096

exclusions

89-18-058

Emergency medical technicians

89-16-070
89-10-069

ineligible household members

89-03-074

certification
recertification

89-10-071
89-16-070

uncared

89-07-001

Fair hearings, continuation of benefits

89-19-075
89-22-131

limits, standard and shelter
deductions, standard utility

89-21-092

pending

89-12-036
89-18-007

allowances, increase in

89-20-052

Family independence program

89-20-071
89-23-084

issuance, first and second month

89-20-053

89-01-046
89-03-053

combined when eligible household

89-23-083

89-03-054
89-09-033

applies after 16th of month

89-23-107

89-12-036
89-18-007

monthly allotments

89-02-069

89-20-071
89-23-084

replacement of lost or stolen

89-05-031

89-23-084

allotments

89-14-056

89-18-059

89-18-059

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

SOCIAL AND HEALTH SERVICES, DEPARTMENT OF—cont.		SOCIAL AND HEALTH SERVICES, DEPARTMENT OF—cont.
nonexempt resources	89-03-073 89-07-001	Maternity care distressed areas, identification of
Social Security number, condition of eligibility	89-11-099 89-16-063 89-16-071 89-11-056 89-16-107 89-15-055 89-15-056	Medicaid chemical-using pregnant recipients, services to
student eligibility	89-03-072 89-07-001	chore services, service determinations
training	89-18-026	
verification	89-03-072 89-07-001	citizenship and alienage, effect on eligibility
violations, intentional, administrative disqualification hearings	89-08-101 89-12-035 89-20-070 89-23-082	personal care services
violations, intentional, disqualification penalties	89-09-032 89-12-034 89-15-055 89-15-056	pregnant, chemical-using recipients, services to
voluntary quit	89-12-076 89-16-064	pregnant women and infants, eligibility
Health division programs		pregnant women, application processing, time limits
fees, annual adjustment of fees charged licenses	89-07-023 89-12-077	pregnant women, enhanced benefits
Home care agencies		transfer of resources by institutionalized individual
licensing standards	89-14-061 89-07-023 89-12-077	Medical assistance program detoxification services for chemically dependent pregnant women
Home health agencies		eligibility
licensing standards	89-24-034 89-24-043	cooperation in securing medical care support, condition of eligibility
Hospice agencies		effective date, retroactive eligibility
fees	89-14-082	
licensing standards	89-14-083 89-18-034	financial responsibility of relatives, income exclusions and exemptions
Hospice clients, eligibility for medical assistance	89-14-061	income and resources, division between institutionalized and community spouse
Hospice services, payment	89-24-034 89-24-043	income exclusions and exemptions, financial responsibility of relatives
Hospitals	89-14-082	institutional and hospice clients
licensing fees	89-14-083	medical care support, cooperation in securing, condition of eligibility
Indians	89-14-061	
child care agencies, licensing, special requirements	89-01-090 89-01-092	medically needy in own home, eligibility
Interlake School, notice of compliance	89-18-079	
Kitsap physicians service—Sound care plan, enrollment of recipients	89-24-033 89-24-042	
Lakeland Village, notice, out of compliance for Medicaid certification as intermediate care facility for the mentally retarded	89-11-103	
Limited casualty program	89-18-047	
jail inmates, eligibility	89-18-048 89-22-037	
medically needy	89-24-034	
eligibility	89-24-043	
excess income, spenddown	89-08-047 89-08-049 89-11-057 89-24-086	
Local Indian child welfare advisory committee	89-01-090	
confidentiality	89-01-092 89-05-063 89-14-086	

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

SOCIAL AND HEALTH SERVICES, DEPARTMENT OF—cont.		
patient overutilization of program, provider selection	89-21-094 89-24-038	89-21-024 89-21-025
payment, when provider may bill recipient	89-16-062 89-18-068 89-22-036	89-07-094 89-11-017
Rainier School, notice of noncompliance sanctions	89-17-134	89-07-094 89-02-030 89-02-043
receipt or transfer of resources without adequate consideration	89-14-057 89-14-064 89-18-032	89-06-050 89-04-054 89-08-054
residence defined	89-23-106	89-04-054
services available to recipients	89-10-020 89-10-024 89-13-005 89-13-082 89-14-059 89-18-033	89-08-054 89-15-052 89-18-054 89-19-024 89-15-052 89-18-054
transportation, other than ambulance, payment of broker or contractor	89-20-072 89-20-075 89-23-081	89-19-024 89-13-083 89-14-062 89-17-030
wheelchair lifts and conversions, purchase and repair	89-02-037 89-08-052	89-02-036 89-02-039
Medical facilities, licensing fees	89-14-061	89-05-029
Medical providers		
dispute conferences	89-02-034 89-05-029	89-14-061 89-07-038
Medicare		
cost sharing	89-02-035 89-02-041 89-05-029 89-08-044 89-08-053 89-11-057 89-21-093 89-24-039	89-04-053 89-07-038 89-14-061 89-03-008 89-13-081 89-14-060 89-17-029
deductible and coinsurance, when paid by department	89-07-037 89-07-039 89-11-004	89-19-071 89-22-129
extended care patients, skilled nursing home care, coinsurance payments	89-07-012 89-07-013 89-11-003	89-11-098 89-17-025 89-17-028 89-21-023 89-22-128
Mentally retarded		
Lakeland village, notice, out of compliance with certification standards as an intermediate care facility	89-11-103	89-02-066 89-02-068 89-05-030
Yakima valley school, notice that school is out of compliance with certification standards as an intermediate care facility	89-22-127	89-01-048 89-01-049
Mobile airway management technicians training and knowledge standards	89-01-089 89-01-096 89-06-003	89-11-055 89-16-065
Mobile intravenous therapy technicians training and knowledge standards	89-01-089 89-01-096	89-22-127
Nursing homes		
accounting and reimbursement system	89-01-095 89-08-046 89-11-100	89-04-021 89-09-036 89-10-008 89-11-012 89-11-036 89-13-001 89-23-033
cognitively impaired residents, plant, environmental, and safety features for	89-17-129 89-21-049	
delivery of services	89-04-054	
fire standards	89-08-054 89-15-051 89-18-006	89-04-018 89-06-023 89-07-068
SOUTH PUGET SOUND COMMUNITY COLLEGE		
Meetings		
SPOKANE COMMUNITY COLLEGES		
Meetings		
Smoking		

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

STATE EMPLOYEES BENEFITS BOARD		TRAFFIC SAFETY COMMISSION	
Eligible dependents	89-01-053	Meetings	89-03-002
	89-09-054		89-05-051
	89-12-045		89-16-094
Eligible employees	89-02-070	TRANSPORTATION COMMISSION/DEPARTMENT	
	89-05-013	Contractors, prequalification of highway system contractors	89-07-034 89-08-064 89-16-086 89-19-013 89-22-013
Extended medical and dental coverage, self-pay	89-09-054	Disabled vehicles, removal	89-18-087 89-18-088 89-22-028 89-08-068 89-12-005 89-14-052 89-04-014
Group medical coverage during leave period	89-02-070	Ferry system contracts, construction, maintenance, and repair of vessels, bond amount and alternative forms of security	89-18-087 89-18-088 89-22-028 89-08-068 89-12-005 89-14-052 89-04-014
reinstatement following leave	89-02-070	fares and rates	89-18-087 89-18-088 89-22-028 89-08-068 89-12-005 89-14-052 89-04-014
Health coverage employer contribution	89-05-013	Highway advertising, solicitation of preproposal comment	89-22-021
extended, denial to those covered by another group plan	89-08-005	Highway system contractor, prequalification	89-07-034 89-08-064 89-16-086 89-19-013
SUPERINTENDENT OF PUBLIC INSTRUCTION (See PUBLIC INSTRUCTION, SUPERINTENDENT OF)		Junkyards adjacent to highways, solicitation of preproposal comment	89-22-021
SUPREME COURT		Meetings	89-02-061 89-04-019 89-07-067 89-12-029 89-18-010 89-23-014
Adoption of new rules and amendments to rules, comprehensive	89-13-032	Motorist information signs, solicitation of preproposal comments	89-22-021
CR 79, amendment	89-23-055	Oversize/overweight vehicle permits	89-19-042
CrRLJ 3.2(o), amendment	89-23-008	Public records, exempt records	89-23-110
GR 15, destruction or sealing of court records	89-23-007	Relocation assistance and real property acquisition	89-14-039 89-17-048
Interpreter code of conduct	89-19-021	Review of rules	89-06-038
JuCR 7.3(d), amendment	89-23-006	Rules coordinator	89-13-027
Justice court administrative rules (JAR) and justice court civil rules (JCR), references to be changed to administrative rules for courts of limited jurisdiction (CARLJ) and civil rules for courts of limited jurisdiction (CRLJ)	89-01-013	Stalled vehicles, removal	89-23-015
Mandatory arbitration rules (MAR), comments	89-14-117	Surplus property sales	89-22-013
RLD 3.1, amendment	89-14-118	agricultural zoned areas	89-01-052
RLD 13.5, amendments to regulations 103 and 106	89-13-031	Traffic control devices, manual on, solicitation of preproposal comment	89-22-021
RPC 1.14, amendment	89-23-009	Utility lines	
RPC 1.14, comment	89-14-116	franchises and permits on state highway rights-of-way	89-02-005 89-05-022
Videotaping of court proceedings, temporary procedures	89-01-027	Vehicle size and weight, oversize/overweight permits	89-19-042
TACOMA COMMUNITY COLLEGE		TRANSPORTATION IMPROVEMENT BOARD	
Meetings	89-01-029	Meetings	89-02-053 89-03-036
Student records, confidentiality	89-13-026		89-04-038
	89-13-072		89-06-037
	89-17-005		89-08-067
	89-20-013		89-10-050
TAX APPEALS, BOARD OF			89-12-015
Appeals notice of appeal time from which appeal period is computed	89-07-031		89-14-101
Practice and procedure formal hearings	89-06-062		89-18-043
informal hearings	89-10-055		89-20-012
public disclosure requests	89-06-063		89-22-002
	89-10-056		89-24-011
	89-06-064		89-10-053
	89-10-057		89-10-054
	89-06-065		89-14-005
	89-10-058		
TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF		Proposed projects, submission to board	
Commerce and economic development meetings	89-01-075		
Economic development finance authority meetings	89-23-016		
	89-23-074		

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

TRANSPORTATION IMPROVEMENT BOARD		UTILITIES AND TRANSPORTATION COMMISSION—cont.
—cont.		
Rules coordinator	89-16-004	Meetings
TREASURER <i>(See inside front cover)</i>		Motor carriers brokers and forwarders
UNIVERSITY OF WASHINGTON		bond or deposit requirements registration, interstate brokers and forwarders
Meetings	89-02-001	out-of-service criteria, adoption of North American uniform rules
	89-01-020	safety regulations, adoption of U.S. Dept. of Transportation regulations dated October 1, 1988
	89-03-016	89-23-046
	89-03-017	89-02-024
	89-03-018	89-06-021
	89-03-022	
	89-03-023	
	89-03-024	
	89-03-039	
	89-03-041	
	89-03-042	
	89-06-055	Natural gas outdoor lighting, repeal of restrictions on use for
	89-07-017	89-05-042
	89-09-035	89-08-030
	89-14-022	Practice and procedure before commission
	89-22-022	89-13-090
	89-22-023	89-16-048
	89-09-043	89-17-049
Parking and traffic regulations	89-15-023	89-17-050
	89-20-041	89-21-036
Stadium boat moorage regulations	89-20-042	89-16-011
URBAN ARTERIAL BOARD <i>(See TRANSPORTATION IMPROVEMENT BOARD)</i>		Rules coordinator
USURY <i>(See inside front cover)</i>		Tariffs distribution and cost facsimile transmission, submission of rates by
UTILITIES AND TRANSPORTATION COMMISSION		89-12-072
Accident reporting		89-15-042
garbage and refuse collection companies	89-02-024	Telecommunications
	89-06-021	contracts and price lists
Accounting and reporting procedures	89-19-047	89-08-110
	89-19-048	89-12-038
Accounting rules, gas and electric companies	89-09-070	cost changes, mandatory
Adjudicative proceedings obtaining data	89-15-041	89-19-041
	89-18-009	customer-owned pay telephones
Alternate operator services	89-04-044	89-16-108
Contested cases obtaining data	89-08-004	disconnection of telephone service
	89-08-109	89-23-047
	89-11-006	methods of reporting
	89-11-085	89-15-050
	89-13-028	89-23-048
Electric utilities purchase of electricity from qualifying facilities and independent power producers, purchase of electric savings	89-08-111	rate filings by local exchange companies, procedures
	89-12-067	89-12-069
	89-12-068	89-17-041
	89-15-043	89-08-024
Facsimile transmission, submission of tariff rates by	89-12-072	switched access lines surcharge
Garbage and refuse collection companies accident reporting	89-02-024	89-08-025
	89-06-021	89-11-020
Gas and electric utility accounting rules	89-09-070	
	89-11-084	
	89-12-070	
Gas utilities, discontinuance of service	89-13-071	VETERINARY BOARD OF GOVERNORS
	89-16-047	<i>(See LICENSING, DEPARTMENT OF)</i>
	89-17-034	
Household goods, information to shippers	89-06-020	VOCATIONAL EDUCATION, BOARD FOR
	89-09-071	Meetings
Limousine service operators	89-20-049	89-06-056
	89-20-051	89-12-050
	89-23-049	89-13-012
		89-13-060
		89-14-075
		89-17-035
		89-21-033
		89-23-037
		VOCATIONAL EDUCATION, COUNCIL ON
		Meetings
		89-03-020
		89-11-076
		89-15-006
		89-19-014
		VOLUNTEER FIREMEN, BOARD FOR
		Meetings
		89-03-001
		89-09-016
		89-15-018
		89-18-023
		89-20-024
		WALLA WALLA COMMUNITY COLLEGE
		Constitution and bylaws, decodification
		89-23-045

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

WALLA WALLA COMMUNITY COLLEGE —cont.			
Meetings	89-04-005 89-23-035	WILDLIFE, DEPARTMENT OF Administrative procedure, repeal of obsolete regulations	89-14-110 89-24-008
WASHINGTON INSTITUTE OF APPLIED TECHNOLOGY		Animals, exotic or hybrid, permit to release	89-04-034 89-08-104 89-12-044
Meetings	89-01-045 89-04-022 89-20-002 89-24-020	Appeals and other agency proceedings, preproposal comment solicitation Aquatic plants, permit to plant	89-14-114 89-04-034 89-08-104 89-12-044
WASHINGTON STATE LIBRARY		Central and field organization of department	89-14-127 89-24-010
Library commission meetings	89-05-037 89-10-005 89-15-011 89-21-054	Deleterious exotic wildlife, additions to list Definitions of terms used in commission rules	89-17-141 89-14-107 89-24-005
Western library network meetings	89-01-051	Eastern gray squirrel, removal from list of protected wildlife Endangered, threatened, and sensitive wildlife species classification	89-08-102 89-24-080 89-24-082
WASHINGTON STATE PATROL		Field identification of wildlife	89-06-079 89-09-058 89-14-018
Bolt, clamp and wedge type brake adjustment standards	89-09-025 89-12-019	Fishing Carbon River Columbia River, license reciprocity, Oregon and Washington	89-04-009
Conviction records, child and adult abuse information, disclosure	89-19-045 89-19-046 89-23-017	Elochoman River game fishing regulations 1989-90 game fishing regulations 1988-90	89-10-026 89-04-010 89-11-052 89-06-080
Criminal records, release of child and adult abuse information	89-14-038	89-06-081	
Disability, line duty disabilities	89-10-011 89-10-015	89-06-082 89-08-032 89-08-106	
Electronic messages, display from motor vehicles	89-09-023 89-09-024 89-12-018	89-10-025 89-10-026 89-10-027 89-11-051 89-16-020 89-17-054	
License plates, marking, persons driving with suspended or revoked license	89-10-007 89-10-016	89-17-149 89-17-151	
Motor vehicle sunscreening devices	89-21-006 89-21-043 89-24-023	Mayfield Lake Puyallup River seasons and regulations, 1990-92, preproposal comment solicitation	89-04-037 89-04-009 89-14-114
Towing businesses	89-10-029 89-14-015 89-18-080 89-21-044	Skykomish River steelhead Carbon River Cedar River	89-16-020
Window tinting and glazing	89-21-006 89-21-043	game fishing regulations 1990-92 closure and limits	89-17-149 89-17-151
WASHINGTON STATE UNIVERSITY			
Meetings	89-04-020 89-11-015 89-18-020 89-21-060 89-18-017 89-20-036	Mayfield Lake Puyallup River seasons and regulations, 1990-92, preproposal comment solicitation	89-04-037 89-04-009 89-14-114
Practice and procedure rules	89-23-117	Skykomish River steelhead Carbon River Cedar River	89-16-020
Rules coordinator	89-14-046		89-23-113
Student conduct rules, disciplinary procedures	89-05-036 89-11-065	closure and limits	89-06-042 89-23-066 89-23-112 89-06-042 89-23-066
WESTERN WASHINGTON UNIVERSITY			
Involuntary administrative withdrawal, behavior from mental disorders	89-05-049 89-10-006 89-11-039	Lake Sammamish	89-23-112 89-06-042 89-23-066 89-23-112
Meetings	89-22-061	Lake Washington	89-06-042 89-23-066
Student rights and responsibilities, amendments	89-05-049 89-10-006 89-11-039	Puyallup River Salmon Bay	89-23-112 89-06-042 89-23-066
WHATCOM COMMUNITY COLLEGE			
Meetings	89-09-048 89-10-003 89-16-036	Sammamish River	89-23-112 89-06-042 89-23-066 89-23-112
		Skagit River Tokul Creek	89-08-011 89-03-028 89-05-002

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

WILDLIFE, DEPARTMENT OF—cont.

Toutle River	89-10-026
Washougal River	89-04-011
Forfeiture of privileges on third conviction for wildlife violation	89-10-025 89-10-026 89-14-115 89-17-148
Fox squirrel, removal from list of protected wildlife	89-08-102 89-11-061
Hunting	
bear	
spring hot spot hunts	89-06-002 89-24-083
bobcat, Canada lynx, cougar, and river otters, tagging requirements	89-14-111 89-18-015
bow and arrow, use of electrical equipment and devices	89-24-081
check stations, evasion unlawful	89-14-106 89-17-145
clothing requirements	89-24-004 89-08-105 89-12-043
damage control permits, ineligibility for failure to properly report animals taken under permit	89-14-105 89-17-140
deer, additional permits, special muzzleloader hunt	89-19-035
disabled hunters	89-08-034 89-08-107 89-11-073 89-14-112 89-24-009
elk	
White River	89-04-007
1989 hunting season	89-22-135 89-24-084
expired seasons, repeal of provisions relating to	89-14-108 89-24-006
game management units, boundary stabilization and description, preproposal comment solicitation	89-14-114
general hunting seasons and rules, 1989-90	89-08-108 89-13-029
hunting seasons, game bag limits, game management units, and area legal descriptions, 1988	89-11-063
light, illegal to shine artificial light on wildlife from motor vehicle when hunting	89-14-109 89-17-144 89-24-007
Mountain goat, sheep, moose, cougar, and lynx	
1988 seasons	89-11-064
1989 seasons	89-06-083 89-09-059 89-12-041
trapping seasons and regulations, amendments, 1988-89 and 1989-90 seasons	89-14-094
turkey	
spring seasons	89-06-002 89-24-083
upland game bird and migratory waterfowl, 1989-90 seasons	89-14-093 89-18-040 89-23-013
upland migratory bird seasons and rules, 1987	89-11-063
Land management regulations	89-13-085 89-14-113

WILDLIFE, DEPARTMENT OF—cont.

Litter	89-13-085
Minerals, wood, and artifacts, removal from department lands	89-13-085 89-08-103
Muzzle loading firearms	89-11-062
Preproposal comment solicitations, areas of possible rulemaking	89-18-014
Protected wildlife, classification	89-08-102 89-11-061 89-24-080
Road management agreements	89-14-113
Sampling data, collection	89-17-146
Taxidermy, regulation of practice, preproposal comment solicitation	89-14-114
Titles of rules	89-17-147
Titles of rules repealed	89-17-150
Vehicles and aircraft, use of department lands	89-13-085

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