

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

Code Reviser's Office
(agency name)

Administrative Order No. 22

(1) I, Dennis W. Cooper, Code Reviser of the State of Washington

do promulgate and adopt at Olympia (place) the annexed rules relating to: chapters 1-12 and 1-13 WAC, regulations for the drafting and filing of notices and rules by state agencies and institutions of higher education

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. WSR 81-11-069 filed with the code reviser on May 20, 1981. Such rules shall take effect:

- checkbox pursuant to RCW 34.04.040(2).
checkbox at a later date, such date being July 26, 1981.

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is:

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

(3) Pursuant to the requirements of RCW 34.04 (1977 c 19 § 2) that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" (fill in statement (a), (b), or (c) as appropriate):

checkbox (a) This rule is promulgated pursuant to RCW 34.08.030 and is intended to administratively implement that statute.

checkbox (b) This rule is promulgated pursuant to RCW 28B.19.080 and 34.04.055 which directs that the

Code Reviser

(agency)

has authority to implement the provisions of chapters 28B.19 and 34.04 RCW.

(name of act or RCW citation)

checkbox (c) This rule is promulgated under the general rule-making authority of the Code Reviser's office

(agency)

as authorized in RCW 1.08.110.

(4) The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

(5) This order after being first recorded in the order register of this agency is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

STATE OF WASHINGTON

APPROVED AND ADOPTED June 25 1981

JUN 25 1981

By Dennis W. Cooper

Code Reviser

Title

CODE REVISER'S OFFICE

[Form CR-7: Effective 12/1/77]

WSR 81-14-021

AMENDATORY SECTION (Amending Order 12, filed 5/9/77)

WAC 1-12-010 WHO MUST FILE RULES UNDER CHAPTER 34.04 RCW. (1) "Agency" defined; see RCW 34.04.010(1).¹
 (2) Filing required; see RCW 34.04.040.²
 (3) State militia, board of prison terms and paroles, and institutions of higher education exempted from provisions of chapter 34.04 RCW; see RCW 34.04.150.³ Institutions of higher education must file under chapter 28B.19 RCW ((1974-ex:s--e-57)) and chapter 1-13 WAC.

NOTES:

¹RCW 34.04.010(1) as last amended by ((1967-e-237-§-4)) § 2, chapter 324, Laws of 1981, provides:

"The definitions set forth in this section shall apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Agency" means any state board, commission, department, or officer, authorized by law to make rules or to adjudicate contested cases, except those in the legislative or judicial branches."

²RCW 34.04.040 provides:

"(1) Each agency shall file forthwith in the office of the code reviser a certified copy of all rules now in effect and hereafter adopted, except the rules contained in tariffs filed with or published by the Washington utilities and transportation commission. The code reviser shall keep a permanent register of such rules open to public inspection.

(2) Emergency rules adopted under RCW 34.04.030 shall become effective upon filing. All other rules hereafter adopted shall become effective upon the expiration of thirty days after the date of filing, unless a later date is required by statute or specified in the rule.

(3) The code reviser shall report to each regular session of the legislature during an odd-numbered year on the state of compliance of the agencies with this section. For this purpose, all agencies shall supply the code reviser with such information as he may request."

³RCW 34.04.150 as last amended by ((1974-ex:s--e-57-§-47)) § 90, chapter 158, Laws of 1979 provides:

"This chapter shall not apply to the state militia, or the board of prison terms and paroles, or any institution of higher education as defined in RCW 28B.19.020. The provisions of RCW 34.04.090 through 34.04.130 shall not apply to the board of industrial insurance appeals or the board of tax appeals unless an election is made pursuant to RCW 82.03.140 or 82.03.190. The provisions of RCW 34.04.090 through 34.04.130 and the provisions of RCW 34.04.170 shall not apply to the denial, suspension or revocation of a driver's license by the department of licensing. All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act."

AMENDATORY SECTION (Amending Order 15, filed 10/31/77)

WAC 1-12-020 WHAT RULES MUST BE FILED. (1) "Rule" defined; see RCW 34.04.010(2); "License" and "Licensing" defined; see RCW 34.04.010(4) and (5).¹

(2) (a) Rules of practice and procedure; see RCW 34.04.020.²

(b) Certain agencies may use the uniform rules of practice and procedure codified in chapter 1-08 WAC; see RCW 34.04.022.³

(c) Each agency must adopt a rule descriptive of its organization stating the general course and methods of its operations and the methods whereby the public may obtain information and make requests; see RCW 34.04.020(2)² and 42.17.250.

(3) All agencies must adopt rules pertaining to the integration of the policies and procedures of chapter 43.21C RCW (the State Environmental Policy Act of 1971) into the various programs under their jurisdiction for implementation; see RCW 43.21C.120.

NOTES:

¹RCW 34.04.010 as last amended by ((1967-e-237-§-1)) § 2, chapter 324, Laws of 1981 provides in part:

"(1) . . .

(2) "Rule" means any agency order, directive, or regulation of general applicability (a) the violation of which subjects a person to a penalty or administrative sanction; (b) which establishes, alters, or revokes any procedure, practice, or requirement relating to agency hearings; (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; (d) which establishes, alters, or revokes any qualifications or standards for the issuance, suspension, or revocation of licenses to pursue any commercial activity, trade, or profession; or (e) which establishes, alters, or revokes any mandatory standards for any product or material which must be met before distribution or sale. The term includes the amendment or repeal of a prior rule, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public, (ii) declaratory rulings issued pursuant to RCW 34.04.080, as now or hereafter amended, or (iii) speed restrictions for motor vehicles established by the state transportation commission.

(3) . . .

(4) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or any form of permission required by law, including agency rule, to engage in any activity, but does not include a license required solely for revenue purposes.

(5) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or modification of a license."

²RCW 34.04.020 as last amended by ((1967-e-237)) § 2, chapter 237, Laws of 1967 provides:

"In addition to other rule-making requirements imposed by law:

(1) Each agency shall adopt rules governing the formal and informal procedures prescribed or authorized by this chapter and rules of practice before the agency, together with forms and instructions: PROVIDED, That RCW 34.04.022 shall apply to agencies which have not adopted comprehensive rules of practice and procedure, in accordance with the provisions of this chapter, prior to July 1, 1967.

(2) To assist interested persons dealing with it, each agency shall adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information and make submissions or requests. No person shall be required to comply with agency procedure not adopted as a rule as herein required.

(3) To the extent not prohibited by federal law or regulation, nor prohibited for reasons of confidentiality by state law, each agency shall keep on file for public inspection all final orders, decisions and opinions in contested cases and any digest or index to those orders, decisions or opinions prepared by the agency for its own use. No agency order, decision or opinion is valid or effective against any person, nor may it be invoked by the agency for any purpose, unless it is available for public inspection as herein required. This provision is not applicable in favor of any person who has actual knowledge thereof."

³RCW 34.04.022 provides:

"On or before July 1, 1967, the code reviser shall add to Title 1 of the Washington Administrative Code a new chapter to be known as chapter 1-08 WAC--Uniform Procedural Rules, which shall become effective July 1, 1967, and shall govern the administrative practice and procedure in and before all agencies which have not adopted comprehensive rules of practice and procedure prior to that date. Except for the numbering thereof, such rules shall be identical with the rules contained in WAC 308-08-010 through 308-08-590 as the same existed on January 3, 1966: PROVIDED, That in publishing chapter 1-08 WAC the reviser may revise such terms as are used in chapter 308-08 WAC to describe "agency", "department", "board", "commission", and like terms, so as to enable the use of such rules by multiple agencies.

This section shall not prohibit any such agency from hereafter adopting its own rules of practice and procedure in the manner provided by this chapter, if such agency shall elect to promulgate comprehensive rules on this subject and shall, in the order of adoption, expressly negative any further applicability to such agency of the rules contained in chapter 1-08 WAC."

AMENDATORY SECTION (Amending Order 21, filed 6/12/80)

WAC 1-12-030 NOTICES OF INTENTION TO ADOPT RULES. (1) Statutory notice requirements; see RCW 34.04.025¹, 34.04.045, and 34.08.020.³

(2) Failure to comply with twenty days notice requirement--Code reviser not to publish rule and rule not effective for any purpose; see RCW 34.04.027.²

(3) Form of notice. Notice shall be filed on forms provided by the code reviser's office (Form CR-1). No other form will be accepted for filing. The notice shall also include the full text of any proposed new or amendatory rule and the citation and caption of any existing rule to be repealed. Such proposal shall be done according to the bill drafting style requirements of WAC 1-12-125 through 1-12-160. The rule purpose statement required by RCW 34.04.045 shall also be included with the notice. (See WAC (~~1-12-065~~) 1-12-032.)

(4) Number of copies; Notice numbers.

(a) Agencies shall file in the code reviser's office an original and three copies of the notice and rule purpose statement whereupon the date of filing and the notice number will be affixed and a copy returned to the filing agency. Such notice number or numbers shall in the event of one or more continuances, be entered in paragraph (7) of all subsequent notices relating to the original notice (Form CR-1). The notice number and date (or the latest such number and date if due to continuances there be more than one) shall be entered by the agency on the administrative order and transmittal form by which the rules are adopted and transmitted for filing.

(b) The agency shall also file copies of the notice with the secretary of the senate, the chief clerk of the house of representatives, and the rules review committee in such numbers as those officials or the committee requires.

(5) Computation of time with respect to the twenty-day rule. The effect of RCW 34.04.025 and 34.04.027 is to require the code reviser to ascertain agency compliance with the twenty-day rule. Such compliance will be determined as follows:

(a) The code reviser's office construes the twenty-day notice requirement of RCW 34.04.025 and 34.04.027 as relating to the date upon which the first action will be taken by the agency upon the proposed rule changes; thus if the agency provides for a public hearing upon the matter, the twenty-day requirement applies to the date of such hearing, otherwise it will apply to the date upon which the agency convenes to adopt, amend, or repeal the rules in question. The dates of the hearing, if any, and of the decision shall be inserted in parts (2) and (3), respectively, of the notice form (CR-1), and such dates may, of course, be coincidental.

(Attention is also directed to the additional requirement embodied in RCW 34.04.025(1) (~~(b)~~) (c) which provides that "Prior to the adoption, amendment, or repeal of any rule, each agency shall: . . . Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing . . .")

(b) The twenty-day notice requirement applies to the publication of the notice and text of the proposal in the state register and begins with the distribution date of the register in which the notice has been published (or a notice regarding the omission of a rule has been published pursuant to RCW 34.04.050(3)). A new notice is required under RCW 34.04.025(2) and (3) if "substantial changes" within the meaning of those subsections are made in the proposal after its publication in the register. This new notice is subject to the full twenty-day waiting period and is also subject to the register closing date schedule of WAC 1-12-035. Consider the distribution date of the pertinent register as day twenty; count down to day zero to find the first day on which action may be taken (hearing or meeting, whichever occurs first); cf. RCW 1.12.040 and State ex rel. Earley v.

Batchelor, 15 Wn.2d 149.

(c) The distribution dates of registers (~~shall be~~) are the first and third Wednesdays of each month. If a distribution date falls on a state holiday as determined by RCW 1.16.050, the distribution date of that register shall be delayed until Thursday, which will also delay the start of the twenty-day notice count. The last day to file material in the code reviser's office for inclusion in any particular register will be established according to WAC 1-12-035.

(d) If upon convening on any of the dates announced in parts (2) and (3) of the notice form (Form CR-1) the agency desires to continue either the hearing or the decision meeting, or both, to a future time certain but does not desire to file a new notice which would be subject to the twenty-day rule such agency may, if it has complied with the twenty-day rule as to its original notice and has convened at the time and place specified in such notice, announce a continuance to a date certain and forthwith file with the code reviser a continuation notice (Form CR-1) containing in part (1) thereof the same terms, substance, or description as was contained in the original notice (or if some of the matters have been disposed of, then such portions thereof as remain applicable) and supplying the additional information required by part (7) of such form. In the event of one or more such continuances, the compliance of the original notice with the twenty-day rule will be deemed to relate to the continuation notices, and the text of the proposal need not be submitted with a notice of continuance. If an agency determines in advance of a hearing or adoption that it desires to continue either or both actions, ~~(it)~~ or if action of the rules review committee necessitates an extension of the rule-making proceedings, the agency may file notice of a continuance in advance of the action if the notice will appear in a register with a distribution date at least ten days before the first action date of the previous notice.

NOTES:

¹RCW 34.04.025 as last amended by § ~~((7,--chapter--240,--Laws--of 1977--ex--sess--(effective-January-1,--1978))~~) 3, chapter 324, Laws of 1981 (effective July 26, 1981) provides:

"(1) Prior to the adoption, amendment, or repeal of any rule, each agency shall:

(a) File notice thereof with the code reviser in accordance with RCW 34.08.020(1) for publication in the state register, and with the secretary of the senate, the chief clerk of the house of representatives, and the rules review committee, and mail such notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings. Such notice shall also include (i) reference to the authority under which the rule is proposed, (ii) a statement of either the terms or substance of the proposed rule or a description of the subjects and issues involved, and (iii) the time when, the place where, and the manner in which interested persons may present their views thereon;

(b) Furnish to the legislature, along with the notice required by subsection (1) (a) of this section, a statement of the reasons supporting the proposed action;

(c) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In case of substantive rules, opportunity for oral hearing must be granted if requested by twenty-five persons, by a governmental subdivision or agency, by the rules review committee, or by an association having not less than twenty-five members.

(2) The agency shall make every effort to insure that the information on the proposed rule circulated pursuant to subsection (1) (a) of this section accurately reflects the rule to be presented and discussed at any oral hearing on such rule. Where substantial changes in the draft of the proposed rule are made after publication of notice in the register which would render it difficult for interested persons to properly comment on the rule without further notice, new notice of the agency's intended action as provided in subsection (1) (a) of this section shall be required.

(3) The agency shall consider fully all written and oral submissions respecting the proposed rule including those addressing the question of whether the proposed rule is within the intent of the legislature as expressed by the statute which the rule implements, and may amend the proposed rule at the oral hearing or adopt the proposed

rule, if there are no substantial changes, without refileing the notice required by this section. Upon adoption of a rule, the agency, if requested to do so by an interested person either prior to adoption or within thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

(4) No proceeding may be held on any rule until twenty days have passed from the distribution date of the register in which notice thereof was contained. The code reviser shall make provisions for informing an agency giving notice under subsection (1) of this section of the distribution date of the register in which such notice will be published.

(5) No rule hereafter adopted is valid unless adopted in substantial compliance with this section, unless it is an emergency rule designated as such and is adopted in substantial compliance with RCW 34.04.030, as now or hereafter amended. In any proceeding a rule cannot be contested on the ground of noncompliance with the procedural requirements of RCW 34.08.020(1), of this section, or of RCW 34.04.030, as now or hereafter amended, after two years have elapsed from the effective date of the rule."

²RCW 34.04.027 provides:

"When twenty days notice of intended action to adopt, amend or repeal a rule has not been filed with the code reviser, as required in RCW 34.04.025, the code reviser shall not publish such rule and such rule shall not be effective for any purpose."

³RCW 34.08.020 as amended by § 15, chapter 186, Laws of 1980 provides: "There is hereby created a state publication to be called the Washington State Register, which shall be published on no less than a monthly basis. The register shall contain, but is not limited to, the following materials received by the code reviser's office during the pertinent publication period:

(1) The full text of any proposed new or amendatory rules, as defined in RCW 34.04.010, and the citation of any existing rules the repeal of which is proposed, prior to the public hearing on such proposal. Such material shall be considered, when published, to be the official notification of the intended action, and no state agency or official thereof may take action on any such rule except on emergency rules adopted in accordance with RCW 34.04.030, until twenty days have passed since the distribution date of the register in which the rule and hearing notice have been published or a notice regarding the omission of the rule has been published pursuant to RCW 34.04.050(3) as now or hereafter amended;

(2) The full text of any new or amendatory rule adopted, and the citation of any existing rule repealed, on a permanent or emergency basis;

(3) Executive orders and emergency declarations of the governor;

(4) Public meeting notices of any and all agencies of state government, including state elected officials whose offices are created by Article III of the state Constitution or RCW 48.02.010;

(5) Rules of the state supreme court which have been adopted but not yet published in an official permanent codification; and

(6) Summaries of attorney general opinions and letter opinions, noting the number, date, subject, and other information, and prepared by the attorney general for inclusion in the register."

AMENDATORY SECTION (Amending Order 21, filed 6/12/80)

WAC 1-12-032 RULE PURPOSE AND IMPLEMENTATION STATEMENT. RCW 34.04.045¹ requires that when notice of any proposed rule is filed with the code reviser it shall be accompanied by a statement generally describing the rule's purpose and how it is to be implemented. Such statement shall also contain, as a minimum, the other items required by that statute. One copy of the purpose statement shall be attached to each copy of the notice filed with the code reviser's office. Also note that it is the responsibility of the adopting agency to transmit three copies each of the statement to the secretary of the senate and

the chief clerk of the house of representatives. Filing the rule purpose statement with the rules review committee would also appear to meet the requirement of RCW 34.04.025(1)(b) for "a statement of the reasons supporting the proposed action."

NOTE:

¹RCW 34.04.045, as amended by 1980 c 186 § 10, provides:

(1) For the purpose of legislative review of agency rules filed pursuant to this chapter, any new or amendatory rule proposed after June 12, 1980, shall be accompanied by a statement prepared by the adopting agency which generally describes the rule's purpose and how the rule is to be implemented. Such statement shall be on the agency's stationery or a form bearing the agency's name and shall contain, but is not limited to, the following:

(a) A title, containing a description of the rule's purpose, the statutory authority for the rule, and any other information which may be of assistance in identifying the rule or its purpose;

(b) A summary of the rule and a statement of the reasons supporting the proposed action;

(c) The agency personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;

(d) The name of the person or organization, whether private, public, or governmental, proposing the rule;

(e) Agency comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;

(f) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a copy of such law or court decision shall be attached to the purpose statement.

(2) Upon filing notice of the proposed rule with the code reviser, the adopting agency shall have copies of the statement on file and available for public inspection and shall forward three copies each of the statement to the secretary of the senate and the chief clerk of the house of representatives, who will in turn forward the statement to the majority and minority caucuses and to the appropriate legislative committees.

AMENDATORY SECTION (Amending Order 21, filed 6/12/80)

WAC 1-12-033 WITHDRAWAL OF PROPOSED RULE. Pursuant to RCW (~~(34.04.045) (1980 c 186 § 10)~~) 34.04.048 a proposed rule may be withdrawn by the proposing agency at any time before adoption. Notice of withdrawal shall be provided to the code reviser's office in the form of a letter or memorandum from the proposing agency signed by the person signing the notice of proposal or by a designee of that person. The agency shall transmit a copy of the notice of withdrawal to the rules review committee.

NEW SECTION

WAC 1-12-034 REVIEW OF PREVIOUSLY ADOPTED RULES. RCW 34.04.____ (1981 c 324 § 7) requires that within thirty days of the receipt of a notice from the rules review committee that certain existing rules of the agency are either "not within the intent of the legislature" or were not "adopted in accordance with all applicable provisions of law," the agency "shall file notice of a hearing on the rule in question with the code reviser. . . ." The agency shall transmit a copy of the review notice to the rules review committee. Notice of such review hearing shall be given on Form CR-11 of the code reviser's office (WAC 1-12-950), and is subject to the twenty-day notice requirement of RCW 34.04.025(4). This applies to all previously adopted rules, whether permanent or emergency rules.

AMENDATORY SECTION (Amending Order 21, filed 6/12/80)

WAC 1-12-035 TIME FOR FILING MATERIAL FOR INCLUSION IN REGISTER. To permit sufficient lead time for the editorial, data capture, and printing process, material to be published under RCW 34.08.020 in a particular register and notices and statements relating to action of the rules review committee shall be in the actual physical possession of and filed in the code reviser's office according to the following schedule:

(1) If the material has been prepared and completed by the order typing service (OTS) of the code reviser's office; by 5:00 p.m. on the fourteenth day prior to the distribution date of that period's register; or

(2) If the material has been prepared other than by the code reviser's order typing service (OTS) and:

(a) Contains no more than ten pages in conformance with WAC 1-12-170; by 5:00 p.m. on the fourteenth day prior to the distribution date of that period's register; or

(b) Contains more than ten but less than thirty pages in conformance with WAC 1-12-170; by 5:00 p.m. on the twenty-eighth day prior to the distribution date of that period's register; or

(c) Contains thirty or more pages in conformance with WAC 1-12-170; by 5:00 p.m. on the forty-second day prior to the distribution date of that period's register.

AMENDATORY SECTION (Amending Order 15, filed 10/31/77)

WAC 1-12-190 EMERGENCY RULES. (1) With respect to emergency rules filed by an agency pursuant to RCW 34.04.030, compliance with WAC 1-12-030 is not required.

(2) Emergency rules shall be transmitted to the code reviser's office in the same manner as permanent rules ((+)); see WAC 1-12-050. Note that RCW 34.04.030 also requires emergency rules to be filed with the rules review committee.

(3) The finding of emergency and statement of reasons therefor required by RCW 34.04.030 shall appear in the administrative order, which is considered to be a part of the rules.

(4) Since an emergency rule is effective only for ninety days from its filing with the code reviser, upon the expiration of such period an existing WAC section reverts to its permanent form prior to the emergency action affecting it. Such temporary changes in the WAC are not codified, and an emergency amendment of an existing WAC section should always be to the current permanently adopted version of that section. If an intervening emergency amendment is still within its ninety day effective period, the subsequent emergency amendment either should specifically supersede the previous emergency order or part thereof which amended the section or should incorporate the previous emergency amendment if that is the effect desired by the agency.

AMENDATORY SECTION (Amending Order 15, filed 10/31/77)

WAC 1-12-210 OFFICIAL FORMS SUPPLIED UPON REQUEST. The following official forms may be obtained upon request from the office of the code reviser:

- | | |
|----------------|--|
| (1) Form CR-1 | Notice of intention to adopt, amend, or repeal rules--Dated ((+2/4/77)) <u>7/26/81</u> (WAC 1-12-910). |
| (2) Form CR-7 | Form of order and transmittal by agency having single head--Dated ((+2/4/77)) <u>7/26/81</u> (WAC 1-12-930). |
| (3) Form CR-8 | Form of order and transmittal by board, commission, or council--Dated ((+2/4/77)) <u>7/26/81</u> (WAC 1-12-940). |
| (4) Form CR-11 | <u>Notice of review of previously adopted rules--Dated 7/26/81 (WAC 1-12-950).</u> |

AMENDATORY SECTION (Amending Order 15, filed 10/31/77)

WAC 1-12-910 NOTICE OF INTENTION TO ADOPT, AMEND, OR REPEAL RULES (CR-1).

NOTICE OF INTENTION TO ADOPT, AMEND, OR REPEAL RULES

(Instructions for completion on back of page)
(Additional information may be typed on back of page)

(1) Notice is hereby given in accordance with the provisions of RCW 34.04.025 ((and-.....)) that the (name of agency) intends to adopt, amend, or repeal rules concerning: ((2))1

.....
(HEARING DATE AND PLACE)

(2) (Use only if hearing is to be held) that such agency will at (time) (day) (date) ((3))2 in the (place) conduct a public hearing relative thereto ((;)).

(3) ((and-that-the))
(a) [] The adoption, amendment, or repeal of such rules will take place immediately following such hearing. --OR--3
(b) [] The formal adoption, amendment, or repeal of such rules will take place at (time) (day) (date)4 in the (place).

(4) The authority under which these rules are proposed is:

(5) Interested persons may submit data, views, or arguments to this agency --
(a) [] in writing to be received by this agency prior to (date) and/or
(b) [] orally at (time), (day), (date), ((3))2 (place).

(6) The additional notice required by RCW 34.04.025 has been made by (a) mailing copies of this notice to all persons who have made timely request of this agency for advance notice of its rule-making proceedings, and (b) filing copies of this notice with the secretary of the senate, the chief clerk of the house of representatives, and the rules review committee.

(7) This notice is connected to and continues the matter ((noticed)) in Notice No(s). WSR filed with the code reviser's office on (date).5

.....
.....
(AGENCY)
Dated:
By:
.....
(TITLE)

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NOTICE #
(Do not write in this space)

N.B. These proceedings may require additional notice pursuant to the Open Public Meetings Act of 1971; consult chapter 42.30 RCW.

INSTRUCTIONS FOR COMPLETION OF FORM CR-1

NOTES:

1 ((Here-cite-additional-statutes-(if-any)-requiring-notice-by-the rule-making-agency-

2)) Here insert a statement of either the terms or substance of the proposed rule or a description of the subjects and issues involved (cf. State v. Squally, 78 Wn2d 475, 474 P2d 897).

((3))2 The statute requires 20 days notice from the distribution date of the register in which this notice will appear, see RCW 34.04.025, 34.04.027, and ((34-08-1977-1st-ex-s-c-240-§-3)) 34.08.020 and WAC 1-12-030(5) and 1-12-035.

3 Indicate only one choice, (a) or (b).

4 This date may not be earlier than that noted in ((3))2; see RCW 34.04.025 and WAC 1-12-030(5).

5 Use for continuance of matter previously noticed and enter here notice number(s) of notice(s) previously returned to you by reviser's office.

.....

This space for additional information.

AMENDATORY SECTION (Amending Order 17, filed 1/26/78)

WAC 1-12-930 FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD (CR-7).

State of Washington

..... (agency name)

Administrative Order No.

(1) I,, director of, do promulgate and adopt at ___(place)___ the annexed rules relating to:

.....

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. filed with the code reviser on

- Such rules shall take effect:
[] pursuant to RCW 34.04.040(2).
[] at a later date, such date being

.....

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I,, find that an emergency exists and that the foregoing order is necessary for the preservation of the public

health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is:

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

.....

(3) Pursuant to the requirements of RCW ((34.04.025(1)(a)(i)-(1977-e-19 §--2))) 34.04.026¹ that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" (fill in statement (a), (b), or (c) as appropriate):

(a) This rule is promulgated pursuant to RCW and is intended to administratively implement that statute.

(b) This rule is promulgated pursuant to RCW which directs that the _____ (agency) _____ has authority to implement the provisions of _____ (name of act or RCW citation) _____.

(c) This rule is promulgated under the general rule-making authority of the _____ (agency) _____ as authorized in RCW

(4) The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

(5) This order after being first recorded in the order register of this agency is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED 19...

By

.....
Title

[Form CR-7: Effective ((12/1/77)) 7/26/81]

NOTE:

¹RCW ((34.04.025(1)(a)(i)-(1977-e-19 §--2))) 34.04.026 provides:

"(1) In addition to the provisions of RCW 34.04.025(1)(a)(i), every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules:

(a) The most specific reference shall be to a section of law which the rule is implementing, and shall be quoted as follows: "This rule is promulgated pursuant to RCW and is intended to administratively implement that statute."

(b) The next specific reference, and one which shall be used only if paragraph (a) of this subsection is not applicable, shall be to that portion of an act which directs an agency to adopt rules and regulations as necessary to implement the act, and shall be quoted as follows: "This rule is promulgated pursuant to RCW which directs that the (agency) has authority to implement the provisions of (name of act or RCW citation)."

(c) The least specific reference, and one which shall be used only if paragraphs (a) and (b) of this subsection are not applicable, is one which indicates that the rule is promulgated under the agency's broad rule-making authority--either in the agency enabling legislation or chapter 34.04 RCW, and shall be quoted as follows: "This rule is promulgated under the general rule-making authority of the (agency) as authorized in RCW"

(2) The code reviser is directed to develop a format for placing

such specific language in each rule, and agencies shall then comply with the code reviser's direction, and shall include the same in the final rule.

(3) During the promulgation hearings process the public may question whether such rule should have a more specific reference, and the agency shall, pursuant to RCW 34.04.025(1)(b), give consideration to such requests."

AMENDATORY SECTION (Amending Order 17, filed 1/26/78)

WAC 1-12-940 FORM OF ORDER AND TRANSMITTAL BY BOARD, COMMISSION, OR COUNCIL (CR-8).

State of Washington

.....
(name of governing body)

.....
(agency name, if applicable)

Resolution No. Administrative Order No.

(1) Be it resolved by the, acting at
____(place)____, that it does promulgate and adopt the annexed rules
relating to:

.....
(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. filed with the code
reviser on Such rules shall take effect:
 pursuant to RCW 34.04.040(2).
 at a later date, such date being

.....
(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

We,, find that an emergency exists and that the
foregoing order is necessary for the preservation of the public
health, safety, or general welfare and that observance of the require-
ments of notice and opportunity to present views on the proposed
action would be contrary to public interest. A statement of the facts
constituting such emergency is:

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

.....
(3) Pursuant to the requirements of RCW ((34-04-026)-(1977-c-19
§--2)) 34.04.026¹ that "every agency shall incorporate the most spe-
cific, but in no case omit all, of the following language alternatives
when adopting or amending rules" (fill in statement (a), (b), or (c)
as appropriate):

(a) This rule is promulgated pursuant to RCW and is

intended to administratively implement that statute.

□ (b) This rule is promulgated pursuant to RCW which directs that the _____ (agency) _____ has authority to implement the provisions of _____ (name of act or RCW citation) _____.

□ (c) This rule is promulgated under the general rule-making authority of the _____ (agency) _____ as authorized in RCW

(4) The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

(5) This order after being first recorded in the order register of this governing body is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED, 19...

By
.....
Title

[Form CR-8: Effective ((12/1/77)) 1/26/81]

NOTE:

¹See WAC 1-12-930, Note 1 for an explanation.

NEW SECTION

WAC 1-12-950 NOTICE OF REVIEW OF PREVIOUSLY ADOPTED RULES (CR-11).

NOTICE OF REVIEW OF PREVIOUSLY ADOPTED RULES

(Instructions for completion on back of page)
(Additional information may be typed on back of page)

(1) Notice is hereby given in accordance with the provisions of section 7, chapter 324, Laws of 1981, that the _____ (name of agency) _____ intends to review the following rules:¹

(2) Such agency will at _____ (time) _____ (day) _____ (date) _____² in the _____ (place) _____ conduct a public hearing relative thereto.

(3) The additional notice required by section 7, chapter 324, Laws of 1981 has been made by mailing copies of this notice to all persons who have made timely request of this agency for advance notice of its rule-making proceedings.

(4) The rules review committee's findings and reasons therefor were stated to this agency as follows:³

.....
.....
Dated: (AGENCY)
By:
..... (TITLE)

.....
.....
REVIEW
NOTICE #
.....

(Do not write in this space)

 N.B. These proceedings may require additional notice pursuant to the
 Open Public Meetings Act of 1971; consult chapter 42.30 RCW.

[Form CR-11: Eff. 7/26/81]

INSTRUCTIONS FOR COMPLETION OF FORM CR-11

NOTES:

¹Here list previously adopted rules of which the Rules Review
 Committee has given you notice of requested review.

²This date may not be earlier than 20 days after the distribution
 date of the issue of the Washington State Register in which this
 notice will appear; See WAC 1-12-034 and 1-12-035.

³Here set forth the Rules Review Committee's findings and reasons
 therefor relating to the rules being reviewed, or attach a copy of the
 findings and reasons to this notice.

 This space for additional information.

AMENDATORY SECTION (Amending Order 21, filed 6/12/80)

WAC 1-13-005 DECLARATION OF PURPOSE. The creation and maintenance of the Washington Administrative Code is a task of considerable magnitude. In recognition of the amount of total effort involved, and in order to effect overall economies in this important function of state government, the legislature has placed responsibilities upon the individual institutions of higher education by requiring (RCW 28B.19.090 and ((28B.19.077--(1980-c-486-§-27))) 28B.19.077) that they formulate both newly created and amendatory rules in the bill drafting style of the legislature and further in accordance with the style, format, and numbering system of the code.

This chapter is promulgated by the code reviser pursuant to the authority granted by RCW 1.08.110, 28B.19.080, and 34.08.030 in the interest of assisting the agencies in preparing, promulgating, and disseminating their administrative rules in an expeditious, orderly, and uniform manner so as to produce a state register and an administrative code which shall be as concise and accurate as possible, and at minimum overall expense to the state. The format standards imposed by this chapter are necessary to enable the inclusion of the rules as part of the register and the code in an orderly and efficient manner.

The code reviser's office will be pleased to afford such advice and assistance to requesting agencies regarding this chapter as its time and resources will permit.

The code reviser expressly reserves the power to create new code titles, chapters, and sections of the Washington Administrative Code, or otherwise revise the title, chapter, and sectional organization of the code, all as may be required from time to time, to effectuate the orderly and logical arrangement of the rules published therein.

Chapter 28B.19 RCW, the State Higher Education Administrative Procedure Act, established separate procedures for institutions of higher education, and the provisions of this chapter apply only to those institutions.

AMENDATORY SECTION (Amending Order 5, filed 10/4/71)

WAC 1-13-010 WHO MUST FILE RULES. (1) "Institutions of higher education" defined; see RCW 28B.19.020(1) ((1974-ex.s--c--57-§ 2(1))).¹

(2) Filing required; see RCW 28B.19.050 ((1974-ex.s--c--57-§ 5)).²

NOTES:

¹RCW 28B.19.020(1) ((1974-ex.s--c--57-§-2(1))) provides:

"(1) "Institutions of higher education" are the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, the various community colleges, and the governing boards of each of the above, and the various colleges, divisions, departments, or offices authorized by the governing board of the institution involved to act for the institution, all of which are sometimes referred to in this chapter as "institutions." The various state community colleges are sometimes referred to in this chapter as "community colleges."

²RCW 28B.19.050 ((1974-ex.s--c--57-§-5)) provides:

"(1) Any rules adopted after September 1, 1971 shall be filed forthwith with the office of the code reviser. The code reviser shall keep a permanent register of such rules open to public inspection.

(2) Emergency rules adopted under RCW 28B.19.040 shall become effective upon filing. All other rules hereafter adopted shall become effective upon the expiration of thirty days after the date of filing, unless a later date is required by statute or specified in the rule.

(3) The code reviser shall report to each regular session of the legislature during an odd-numbered year on the state of compliance of the institutions of higher education with this section. For this purpose, all institutions of higher education shall supply the code reviser with such information as he may request."

AMENDATORY SECTION (Amending Order 5, filed 10/4/71)

WAC 1-13-020 WHAT RULES MUST BE FILED. (1) "Rule" defined; see RCW 28B.19.020 (2) ((1974-ex:s:-e-57-§-2(2))).¹

(2) Orders adopting, amending, or repealing rules must be in accordance with style, format, and numbering system of WAC; see RCW 28B.19.090 ((1974-ex:s:-e-57-§-9)).²

NOTES:

¹RCW 28B.19.020 (2) ((1974-ex:s:-e-57-§-2(2))) provides:

"(2) "Rule" means any order, directive, or regulation of any institution of higher education which affects the relationship of the general public with the institution, or the relationship of particular segments of the particular educational community such as students, faculty, or other employees, with the institution or with each other, (a) the violation of which subjects a person to a penalty or administrative sanction; or (b) which establishes, alters, or revokes any procedures, practice, or requirement relating to institutional hearings; or (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law. The term includes the amendment or repeal of a prior rule but does not include rules, regulations, orders, statements, or policies relating primarily to the following: Standards for admission; academic advancement, academic credits, graduation and the granting of degrees; tuition and fees, scholarships, financial aids, and similar academic matters; employment relationships; fiscal processes; or matters concerning only the internal management of an institution and not affecting private rights or procedures available to the general public; and such matters need not be established by rule adopted under this chapter unless otherwise required by law."

²RCW 28B.19.090 ((1974-ex:s:-e-57-§-9)) provides:

"After the rules of institutions of higher education have been published by the code reviser all institution of higher education orders amending or rescinding such rules, or creating new rules, shall be formulated in accordance with the style, format, and numbering system of the Washington administrative code."

AMENDATORY SECTION (Amending Order 21, filed 6/12/80)

WAC 1-13-030 NOTICES OF INTENTION TO ADOPT RULES. (1) Statutory notice requirements; see RCW 28B.19.030¹, ((28B:19:-----1980-e-486-§-23)) 28B.19.033, and 34.08.020.³

(2) Failure to comply with twenty days notice requirement--Code reviser not to publish rules and rule not effective for any purpose; see RCW 28B.19.030 (3).²

(3) Form of notice. Notices shall be filed on forms provided by the code reviser's office (Form CR-4). No other form will be accepted for filing. The notice shall also include the full text of any proposed new or amendatory rule and the citation and caption of any existing rule to be repealed. Such proposal shall be done according to the bill drafting style requirements of WAC 1-13-125 through 1-13-160. The rule purpose statement required by RCW ((28B:19:-----1980-e-486-§-23)) 28B.19.033 shall also be included with the notice. (See WAC 1-13-032.)

(4) Number of copies; Notice numbers.

(a) ((Agencies)) Institutions of higher education shall file in the code reviser's office an original and three copies of the notice and rule purpose statement whereupon the date of filing and the notice number will be affixed and a copy returned to the filing ((agency)) institution. Such notice number or numbers shall in the event of one or more continuances, be entered in paragraph (7) of all subsequent notices relating to the original notice (Form CR-4). The notice number and date (or the latest such number and date if due to continuances there be more than one) shall be entered by the ((agency)) institution on the administrative order and transmittal form by which the rules are adopted and transmittal form transmitted for filing.

(b) The institution shall also file copies of the notice with the secretary of the senate, the chief clerk of the house of representatives, and the rules review committee in such numbers as those officials or the committee requires.

(5) Computation of time with respect to the twenty-day rule. The effect of RCW 28B.19.030 is to require the code reviser to ascertain ((agency)) institution compliance with the twenty-day rule. Such compliance will be determined as follows:

(a) The code reviser's office construes the twenty-day notice requirement of RCW 28B.19.030 as relating to the date upon which the first action will be taken by the ((agency)) institution upon the proposed rule changes; thus if the ((agency)) institution provides for a public hearing upon the matter, the twenty-day requirement applies to the date of such hearing, otherwise it will apply to the date upon which the ((agency)) institution convenes to adopt, amend, or repeal the rules in question. The dates of the hearing, if any, and of the decision shall be inserted in parts (2) and (3), respectively, of the notice form (CR-4), and such dates may, of course, be coincidental.

(Attention is also directed to the additional requirement embodied in RCW 28B.19.030(1) ((b)) (d) which provides that "Prior to the adoption, amendment, or repeal of any rule, each institution. . . shall: . . . Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing . . .")

(b) The twenty-day notice requirement applies to the publication of the notice and the text of the proposal in the state register and begins with the distribution date of the register in which the notice has been published (or a notice regarding the omission of a rule has been published pursuant to RCW 28B.19.070). A new notice is required under RCW 28B.19.030(2) and (3) if "substantial changes" within the meaning of those subsections are made in the proposal after its publication in the register. This new notice is subject to the full twenty-day waiting period and is also subject to the register closing date schedule of WAC 1-13-035. Consider the distribution date of the pertinent register as day twenty; count down to day zero to find the first day on which action may be taken (hearing or meeting, whichever occurs first); cf. RCW 1.12.040 and State ex rel. Earley v. Batchelor, 15 Wn.2d 149.

(c) The distribution dates of registers (~~shall--be~~) are the first and third Wednesdays of each month. If a distribution date falls on a state holiday as determined by RCW 1.16.050, the distribution date of that register shall be delayed until Thursday, which will also delay the start of the twenty-day notice count. The last day to file material in the code reviser's office for inclusion in any particular register will be established according to WAC 1-13-035.

(d) If upon convening on any of the dates announced in parts (2) and (3) of the notice form (Form CR-4) the ((agency)) institution desires to continue either the hearing or the decision meeting, or both, to a future time certain but does not desire to file a new notice which would be subject to the twenty-day rule such ((agency)) institution may, if it has complied with the twenty-day rule as to its original notice and has convened at the time and place specified in such notice, announce a continuance to a date certain and forthwith file with the code reviser a continuation notice (Form CR-4) containing in part (1) thereof the same terms, substance, or description as was contained in the original notice (or if some of the matters have been disposed of, then such portions thereof as remain applicable) and supplying the additional information required by part (7) of such form. In the event of one or more such continuances, the compliance of the original notice with the twenty-day rule will be deemed to relate to the continuation notices, and the text of the proposal need not be submitted with a notice of continuance. If an ((agency)) institution determines in advance of a hearing or adoption that it desires to continue either or both actions, ((it)) or if action of the rules review committee necessitates an extension of the rule-making proceeding, the institution may file a notice of continuance in advance of the action if the notice will appear in a register with a distribution date at least ten days before the first action date of the previous notice.

NOTES:

¹ & ² RCW 28B.19.030 as last amended by § ((~~40, chapter 240, Laws of 1977-ex-sess.-(effective January 1, 1978)~~)) 12, chapter 324, Laws of 1981 (effective July 26, 1981) provides:

"(1) Prior to the adoption, amendment, or repeal of any rule adopted under this chapter, each institution, college, division, department, or official thereof exercising rule-making authority delegated by the governing board or the president, shall:

(a) File notice thereof with the code reviser in accordance with RCW 34.08.020(1) for publication in the state register, and with the secretary of the senate, the chief clerk of the house of representatives, and the rules review committee, and mail the notice to all persons who have made timely request of the institution or related board for advance notice of its rule-making proceedings. Such notice shall also include (i) reference to the authority under which the rule is proposed, (ii) a statement of either the terms or substance of the proposed rule or a description of the subjects and issues involved, and (iii) the time when, the place where, and the manner in which interested persons may present their views thereon;

(b) Furnish to the legislature, along with the notice required by subsection (1) (a) of this section, a statement of the reasons supporting the proposed action;

(c) Provide notice to the campus or standard newspaper of the institution involved and to a newspaper of general circulation in the area at least seven days prior to the date of the rule-making proceeding. The notice shall state the time when, place where, and manner in which interested persons may present their views thereon and the general subject matter to be covered;

(d) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. An opportunity for oral hearing must be granted if requested by twenty-five persons or by the rules review committee.

(2) The institution shall make every effort to insure that the information on the proposed rule circulated pursuant to subsection (1) (a) of this section accurately reflects the rule to be presented and discussed at any oral hearing on such rule. Where substantial changes in the draft of the proposed rule are made after publication of notice in the register which would render it difficult for interested persons to properly comment on the rule without further notice, new notice of the institution's intended action as provided in subsection (1) (a) of this section shall be required.

(3) The institution shall consider fully all written and oral statements respecting the proposed rule including those addressing the question of whether the proposed rule is within the intent of the legislature as expressed by the statute which the rule implements, and may amend the proposed rule at the oral hearing or adopt the proposed rule, if there are no substantial changes, without refileing the notice required by this section.

(4) No proceeding may be held on any rule until twenty days have passed from the distribution date of the register in which notice thereof was contained. The code reviser shall make provisions for informing an institution of higher education giving notice under subsection (1) of this section of the distribution date of the register in which such notice will be published.

(5) No rule adopted under this chapter is valid unless adopted in substantial compliance with this section, unless it is an emergency rule designated as such and is adopted in substantial compliance with RCW 28B.19.040, as now or hereafter amended. In any proceeding a rule cannot be contested on the ground of noncompliance with the procedural requirements of RCW 34.08.020(1), of this section, or of RCW 28B.19.040, as now or hereafter amended, after two years have elapsed from the effective date of the rule.

(6) When twenty days notice of intended action to adopt, amend, or repeal a rule has not been filed with the code reviser, as required by subsection (4) of this section, the code reviser may not publish such rule and such rule may not be effective for any purpose."

³RCW 34.08.020 as amended by § 15, chapter 186, Laws of 1980 provides: "There is hereby created a state publication to be called the Washington State Register, which shall be published on no less than a monthly basis. The register shall contain, but is not limited to, the

following materials received by the code reviser's office during the pertinent publication period:

(1) The full text of any proposed new or amendatory rules, as defined in RCW 34.04.010, and the citation of any existing rules the repeal of which is proposed, prior to the public hearing on such proposal. Such material shall be considered, when published, to be the official notification of the intended action, and no state agency or official thereof may take action on any such rule except on emergency rules adopted in accordance with RCW 34.04.030, until twenty days have passed since the distribution date of the register in which the rule and hearing notice have been published or a notice regarding the omission of the rule has been published pursuant to RCW 34.04.050(3) as now or hereafter amended;

(2) The full text of any new or amendatory rule adopted, and the citation of any existing rule repealed, on a permanent or emergency basis;

(3) Executive orders and emergency declarations of the governor;

(4) Public meeting notices of any and all agencies of state government, including state elected officials whose offices are created by Article III of the state Constitution or RCW 48.02.010;

(5) Rules of the state supreme court which have been adopted but not yet published in an official permanent codification; and

(6) Summaries of attorney general opinions and letter opinions, noting the number, date, subject, and other information, and prepared by the attorney general for inclusion in the register."

AMENDATORY SECTION (Amending Order 21, filed 6/12/80)

WAC 1-13-032 RULE PURPOSE AND IMPLEMENTATION STATEMENT. RCW ((28B:49:-----{1980--e--486--§--23})) 28B.19.033¹ requires that when notice of any proposed rule is filed with the code reviser it shall be accompanied by a statement generally describing the rule's purpose and how it is to be implemented. Such statement shall also contain, as a minimum, the other items required by that statute. One copy of the purpose statement shall be attached to each copy of the notice filed with the code reviser's office. Also note that it is the responsibility of the adopting institution to transmit three copies of the statement to the secretary of the senate and the chief clerk of the house of representatives. Filing the rule purpose statement with the rules review committee would also appear to meet the requirements of RCW 28B.19.030(1)(b) for "a statement of the reasons supporting the proposed action."

NOTES:

¹RCW ((28B:49:-----{1980--e--486--§--23})) 28B.19.033 provides:

"(1) For the purpose of legislative review of institution rules filed pursuant to this chapter, any new or amendatory rule proposed after June 12, 1980, shall be accompanied by a statement prepared by the adopting institution which generally describes the rule's purpose and how the rule is to be implemented. Such statement shall be on the institution's stationery or a form bearing the institution's name and shall contain, but is not limited to, the following:

(a) A title, containing a description of the rule's purpose, the statutory authority for the rule, and any other information which may be of assistance in identifying the rule or its purpose;

(b) A summary of the rule and a statement of the reasons supporting the proposed action;

(c) The institution personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;

(d) The name of the person or organization, whether private, public, or governmental, proposing the rule, if any;

(e) Institution comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;

(f) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a copy of such law or court decision shall be attached to the purpose statement.

(2) Upon filing notice of the proposed rule with the code reviser, the adopting institution shall have copies of the statement on file and available for public inspection and shall forward three copies each of the statement to the secretary of the senate and the chief clerk of the house of representatives, who will in turn forward the statement to the majority and minority caucuses and to the appropriate legislative committees."

AMENDATORY SECTION (Amending Order 21, filed 6/12/80)

WAC 1-13-033 WITHDRAWAL OF PROPOSED RULE. Pursuant to RCW ((28B.19.037--(1980-e-486-§-24))) 28B.19.037 a proposed rule may be withdrawn by the proposing institution at any time before adoption. Notice of withdrawal shall be provided to the code reviser's office in the form of a letter or memorandum from the proposing institution signed by the person signing the notice of proposal or by a designee of that person. The institution shall transmit a copy of the notice of withdrawal to the rules review committee.

NEW SECTION

WAC 1-13-034 REVIEW OF PREVIOUSLY ADOPTED RULES. RCW 28B.19.037 (1981 c 324 § 15) requires that within thirty days of the receipt of a notice from the rules review committee that certain existing rules of the institution are either "not within the intent of the legislature" or were not "adopted in accordance with all applicable provisions of law," the institution "shall file notice of a hearing on the rule in question with the code reviser. . . ." The institution shall transmit a copy of the review notice to the rules review committee. Notice of such review hearing shall be given on Form CR-12 of the code reviser's office (WAC 1-13-950), and is subject to the twenty-day notice requirement of RCW 28B.19.030(4). This applies to all previously adopted rules, whether permanent or emergency rules.

AMENDATORY SECTION (Amending Order 21, filed 6/12/80)

WAC 1-13-035 TIME FOR FILING MATERIAL FOR INCLUSION IN REGISTER. To permit sufficient lead time for the editorial, data capture, and printing process, material to be published under RCW 34.08.020 in a particular register and notices and statements relating to action of the rules review committee shall be in the actual physical possession of and filed in the code reviser's office according to the following schedule:

(1) If the material has been prepared and completed by the order typing service (OTS) of the code reviser's office; by 5:00 p.m. on the fourteenth day prior to the distribution date of that period's register; or

(2) If the material has been prepared other than by the code reviser's order typing service (OTS) and:

(a) Contains no more than ten pages in conformance with WAC 1-13-170; by 5:00 p.m. on the fourteenth day prior to the distribution date of that period's register; or

(b) Contains more than ten but less than thirty pages in conformance with WAC 1-13-170; by 5:00 p.m. on the twenty-eighth day prior to the distribution date of that period's register; or

(c) Contains thirty or more pages in conformance with WAC 1-13-170; by 5:00 p.m. on the forty-second day prior to the distribution date of that period's register.

AMENDATORY SECTION (Amending Order 21, filed 6/12/80)WAC 1-13-130 DRAFTING INSTRUCTIONS--AMENDATORY SECTIONS. (1)

Both proposed and adopted rules which amend a section or sections of existing rules shall set forth the full text of the most current version of the section or sections including the WAC citation number, caption, text of the section, and associated agency explanatory notes and shall indicate by use of deletion and/or addition marks the amendment being made (RCW ((28B:49:00000-1980-e-486-§-27)) 28B.19.077).

(2) Amendments shall be to the most current permanent version of a WAC section and shall be drafted in the following manner only:

(a) Language added to an existing WAC section shall be underlined;

(b) Language to be deleted from an existing WAC section shall be

(i) preceded by two left parentheses,

(ii) struck over with hyphens, and

(iii) followed by two right parentheses;

(c) New language which replaces deleted language shall follow the deleted language.

(3) Each amendatory section shall be headed "AMENDATORY SECTION" followed by reference to the agency order number and filing date of the latest permanent order affecting that section. (See WAC 1-13-155 for style of this reference.)

(4) Special care must be taken to make sure that punctuation is not neglected. Addition and deletion of punctuation must be indicated in the above manner also. Existing punctuation should, however, be utilized to the extent possible. For example, if new language is to follow the last word of a sentence, insert the new language (underlined) between the existing last word and the existing period.

(5) The code reviser's office will be pleased to afford such advice and assistance as its time and resources will permit to requesting institutions regarding the style in which rules amending existing WAC sections must be drafted. (See WAC 1-13-240.)

(6) Note that rules which amend existing WAC sections and which are not drafted in the required style cannot be accepted for filing by the code reviser, and any addition to or deletion from an existing WAC section not promulgated in the required style has no legal effect and is not enforceable by the institution (RCW ((28B:49:00000-1980-e-486-§-27)) 28B.19.077).

(7) In the event that any section to be amended is exempted from publication under the provisions of RCW 28B.19.070 and therefore not codified in the Washington Administrative Code, it shall be referred to by agency order and section number, or other appropriate description.

NOTES:

¹RCW ((28B:49:00000-1980-e-486-§-27)) 28B.19.077 provides:

"(1) Rules promulgated by an institution pursuant to RCW 28B.19.030 or 28B.19.040, as now or hereafter amended, which amend existing sections of the administrative code shall have the words which are amendatory to such existing sections underlined. Any matter to be deleted from an existing section shall be indicated by setting such matter forth in full, enclosed by double parentheses, and such deleted matter shall be lined out with hyphens. In the case of a new section, such shall be designated "NEW SECTION" in upper case type and such designation shall be underlined, but the complete text of the section shall not be underlined. No rule may be forwarded by any institution to the code reviser, nor may the code reviser accept for filing any rule unless the format of such rule is in compliance with the provisions of this section.

(2) Once the rule has been formally adopted by the institution the code reviser need not, except with regard to the register published pursuant to RCW 28B.19.070(2), as now or hereafter amended, include the items enumerated in subsection (1) of this section in the official code.

(3) Any addition to or deletion from an existing code section not filed by the institution in the style prescribed by subsection (1) of this section shall in all respects be ineffectual, and shall not be shown in subsequent publications or codifications of that section unless the ineffectual portion of the rule is clearly distinguished and an explanatory note is appended thereto by the code reviser in

accordance with RCW 28B.19.070, as now or hereafter amended, and RCW 28B.19.073."

AMENDATORY SECTION (Amending Order 15, filed 10/31/77)

WAC 1-13-190 EMERGENCY RULES. (1) With respect to emergency rules filed by an institution pursuant to RCW 28B.19.040, compliance with WAC 1-13-030 is not required.

(2) Emergency rules shall be transmitted to the code reviser's office in the same manner as permanent rules; see WAC 1-13-050. Note that RCW 28B.19.040 also requires emergency rules to be filed with the rules review committee.

(3) The finding of emergency and statement of reasons therefor required by RCW 28B.19.040 shall appear in the administrative order, which is considered to be a part of the rules.

(4) Since an emergency rule is effective only for ninety days from its filing with the code reviser, upon the expiration of such period an existing WAC section reverts to its permanent form prior to the emergency action affecting it. Such temporary changes in the WAC are not codified, and an emergency amendment of an existing WAC section should always be to the current permanently adopted version of that section. If an intervening emergency amendment is still within its ninety day effective period, the subsequent emergency amendment either should specifically supersede the previous emergency order or part thereof which amended the section or should incorporate the previous emergency amendment if that is the effect desired by the institution.

AMENDATORY SECTION (Amending Order 15, filed 10/31/77)

WAC 1-13-210 OFFICIAL FORMS SUPPLIED UPON REQUEST. The following official forms may be obtained upon request from the office of the code reviser:

- (1) Form CR-4 Notice of intention to adopt, amend, or repeal rules by institution((s)) of higher education--Dated ((~~4/2/77~~)) 7/26/81 (WAC 1-13-910).
- (2) Form CR-9 Form of order and transmittal by institution having single head--Dated 12/1/77 (WAC 1-13-930).
- (3) Form CR-10 Form of order and transmittal by board, commission, or council--Dated 12/1/77 (WAC 1-13-940).
- (4) Form CR-12 Notice of review of previously adopted rules by institution of higher education--Dated 7/26/81 (WAC 1-13-950).

AMENDATORY SECTION (Amending Order 15, filed 10/31/77)

WAC 1-13-910 NOTICE OF INTENTION TO ADOPT, AMEND, OR REPEAL RULES BY INSTITUTION((S)) OF HIGHER EDUCATION (CR-4).

NOTICE OF INTENTION
TO ADOPT, AMEND, OR REPEAL
RULES BY INSTITUTION((S))
OF HIGHER EDUCATION

(Instructions for completion on back of page)
(Additional information may be typed on back of page)

(1) Notice is hereby given in accordance with the provisions of RCW 28B.19.030 ((and-----7+)) that the

_____(name of institution)_____ intends to adopt, amend, or repeal rules concerning:((2))¹

..... (HEARING DATE AND PLACE)

(2) (Use only if hearing is to be held) that such institution will at _____(time)_____ (day)_____ (date)_____ ((3))² in the _____(place)_____, conduct a public hearing relative thereto((†)).

(3) ((and-that-the))

(a) The formal adoption, amendment, or repeal of such rules will take place immediately following such hearing. --OR--³

(b) The formal the adoption, amendment, or repeal of such rules will take place at _____(time)_____ (day)_____ (date)_____ ⁴ in the _____(place)_____.

(4) The authority under which these rules are proposed is:

(5) Interested persons may submit data, views, or arguments to this institution --

(a) in writing to be received by this institution prior to _____(date)_____ and/or

(b) orally at _____(time)_____, _____(day)_____, _____(date)_____, ((3))² _____(place)_____.

(6) The additional notice required by RCW 28B.19.030 has been made by (a) mailing copies of this notice to all persons who have made timely request of this ((agency)) institution for advance notice of its rule-making proceedings, and (b) filing copies of this notice with the secretary of the senate, the chief clerk of the house of representatives, and the rules review committee.

(7) This notice is connected to and continues the matter ((noticed)) in Notice No(s). WSR filed with the code reviser's office on _____(date)_____.⁵

..... (INSTITUTION)

Dated:

By:

..... (TITLE)

NOTICE # (Do not write in this space)	
--	--

N.B. These proceedings may require additional notice pursuant to the Open Public Meetings Act of 1971; consult chapter 42.30 RCW.

[Form CR-4: Rev. ((42/4/77)) 7/26/81]

INSTRUCTIONS FOR COMPLETION OF FORM CR-4

NOTES:

1 (~~Here-site-additional-statutes-(if-any)-requiring-notice-by-the rule-making-agency-~~

2) Here insert a statement of either the terms or substance of the proposed rule or a description of the subjects and issues involved. (cf. State v. Squally, 78 Wn2d 475, 474 P2d 897).

3) The statute requires 20 days notice from the distribution date of the register in which this notice will appear, see RCW 28B.19.030 and (~~34.08.....(1977-1st-ex.s.-s-240-§-3(1))~~) 34.08.020 and WAC 1-13-030 (5) and 1-13-035.

3 Indicate only one choice, (a) or (b).

4 This date may not be earlier than that noted in 3) 2; see RCW 28B.19.030 and WAC 1-13-030 (5).

5 Use for continuance of matter previously noticed and enter here notice number(s) of notice(s) previously returned to you by reviser's office.

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This space for additional information.

NEW SECTION

WAC 1-13-950 NOTICE OF REVIEW OF PREVIOUSLY ADOPTED RULES BY INSTITUTION OF HIGHER EDUCATION (FORM CR-12).

NOTICE OF REVIEW OF PREVIOUSLY ADOPTED RULES
BY INSTITUTION OF HIGHER EDUCATION

(Instructions for completion on back of page)
(Additional information may be typed on back of page)

(1) Notice is hereby given in accordance with the provisions of section 15, chapter 324, Laws of 1981, that the (name of institution) intends to review the following rules:¹

(2) Such institution will at (time) (day) (date) ² in the (place) conduct a hearing relative thereto.

(3) The additional notice required by section 15, chapter 324, Laws of 1981, has been made by mailing copies of this notice to all persons who have made timely request of this agency for advance notice of its rule-making proceedings.

(4) The rules review committee's findings and reasons therefor were stated to this institution as follows:³

.....			
.....			
(INSTITUTION)			
Dated:			
By:			
.....		REVIEW	
(TITLE)		NOTICE #	

(Do not write in this space)

 N.B. These proceedings may require additional notice pursuant to the
 Open Public Meetings Act of 1971; consult chapter 42.30 RCW.

[Form CR-12: Eff. 7/26/81]

INSTRUCTIONS FOR COMPLETION OF FORM CR-12

NOTES:

¹Here list previously adopted rules of which the Rules Review
 Committee has given you notice of requested review.

²This date may not be earlier than 20 days after the distribution
 date of the issue of the Washington State Register in which this
 notice will appear; See WAC 1-13-034 and 1-13-035.

³Here set forth the Rules Review Committee's findings and reasons
 therefor relating to the rules being reviewed, or attach a copy of the
 findings and reasons to this notice.

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 This space for additional information.